

*Instructor Clericalis :*

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*The First Part.*

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DIRECTING  
**CLERKS**

Both in the COURT of  
**KING'S-BENCH**  
AND  
**COMMON PLEAS:**  
IN THE

Abbreviation and Contraction of Words,  
(and thereby the speedy reading of Presidents) in the  
Filling up and Suing out Writs of first Process, in Draw-  
ing Declarations, making up Issues, Ingrossing Records,  
Entering Judgments and Suing out Executions: Also Pleas  
and Demurrers, &c.

WITH

An Addition of many Special Notes and  
Observations in the Court of *Common-Pleas*, Alphabeti-  
cally digested.

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*The Third Edition, with several Necessary Additions.*

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L O N D O N :

Printed by the Assigns of *Richard and Edw. Atkins, Esquires ;*  
for **Thomas Weber**, at the Hand and Star within  
Temple Bar. 1700.



1608/278.

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THE  
EPISTLE  
TO THE  
**First Edition.**

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*Curteous Reader,*

**N**otwithstanding the many large Books of Presidents and directions of Masters, it has been found greatly necessary, and thought very convenient, as well by Young Clerks as others, especially such as are employed in Entries; to have some brief, orderly and plain Manual, to remember and

*The First Epistle.*

and instruct them in such things as may be the Clerkship of their First Years. Therefore this Treatise hath been Collected, with plain and necessary Directions, agreeable to the Undertaking; not doubting but it may be useful to most, and wishing it may be favourably accepted by all, is the Chief Desire of

May 1st. 1693.



*Yours, &c.*

T H E



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T H E

Second E P I S T L E.

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Courteous Reader,

**T***His Treatise was chiefly Collected and Published for the instructions of Young Clerks, in the Buisness of their First Years, and met with such a General Approbation, that the Impression was soon bought up, and a second earnestly desired; and thereby my former desire of a favourable acceptance being fully answered, I have to this Second Edition, taken the Pains to make many considerable Additions; and therein have also procured the assistance of several*

## The Second Epistle.

*Several Eminent Practisers of both Courts. Whereby this Work will manifestly appear to exceed all others in its kind, and being now thus furnished for your benefit, is again recommended to your favourable acceptance, by*

June 10 1700.



Yours, &c.

R. G.

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The Errors both of Collector and Press are submitted to your Correction. Also in this third Edition are several necessary and useful Additions.

THE

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# INSTRUCTIONS FOR YOUNG CLERKS.

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## The Introduction.

**T**HE first thing requisite for a Young Clerk, is to learn to write well; especially to understand the true Breaks and Proportions of Secretary and Court Hands; by the knowing whereof, he will easily fall into the Cursory or Running Hands.

## The Introduction.

He may in the next place use himself to read Writs, Declarations, and Pleadings in Court-Hand, and endeavour to know the Abbreviations of Syllables, and Contractions of Words, for he will meet with very many of these in Writs and Pleadings, and not being used to them, will be hard put to it to know what to call them, and that perhaps when he shall be put to read them openly.

See some  
of their  
Directions  
in page 15.

It is accounted also very commendable to abbreviate and contract Words, &c. and to dash and turn them up Clerk-like: for which there is no fixt Rule, but must be gathered by Observation and Imitation of the best Clerks; in which the Clerks of the *Common Pleas* are most precise, and think they have the preheminance. And tho' these cannot be truly described in any other but the Court-Hand, yet that you may know the Method of them, I have hereafter put down most of those Words you will meet with, either Abbreviated or Contracted; not so much for your Imitation, as for Instruction readily to read them.

And first observe, That these Syllables following are usually abbreviated at the beginning and middle of Words. And sometimes at the end.



Abbre-

# Of Abbreviations.

3

## Abbreviations of Syllables and Words.

ber, bar b		cer c	
ber b		per, par p	
ber ] as	cer ]	ctus	
Gilbtus		certus	
Gilbertus		intum	
libtas		incertum	
libertas	per ]	pussit	
bar ] bganizabit		percussit	
barganizabit		ptid	
ber ] flus		pertinentiis	
versus	par ]	pte	
bbabit		parte	
verberabit		patus	
ec.		paratus	
mer m	ner n	gra g	pza p
	pzo p	tra t	
ndcato?	ner ] bulda	gra ] gis, gratis	
mercato?	bulnera	and pza at the end	
andcia-	pzo ] ptulit	of Words, as,	
menē	ptulit	pza ] sup, supra	
amercia-	ppbac	pze ] pmissa	
mento,	ec.	pmissa	
ec.		pdictus. Ec.	
		tra ] ere, extra	
		nlgē	
		transgressio,	
		Ec.	



## Of Abbreviations.

So (ter) in the beginning, middle and latter end of Words, as tra terra, mittere mitteret, breviter breviter.

(tur) at the end of Words, as querit? queritur, igit? igitur, &c.

(bus) at the end of Words, as quib? quibus, and sometimes in the middle, as quib? cumq;

Gerunds in (di) (do) and (dum) are abbreviated at d, } as { interloquendi, for interloquendi. innuendi, for innuendo. habendi & tenendi, for habendum & tenendum

Participles in (rus) at r, } as { futuri for futurus } so } sec. p. om. } servituri } nes } Ca- } duratur } sus.

(um) by u at the end of Words, as horreum, stabulum, messuagium, gardium, &c.

(rum) after (a) (e) (o) by r } as { quatuor, re, quod, quarum, rerum, quorum, &c.

(us) by s or s, } as { precipimus } ipsi } ipsius, } mittim, &c.

(quem) by qm, (quam) by qm, (quod) by qd, (que) by q, qz.

(sio and tio) by co, both in the middle and latter end, as suboco subversio, narraco narratio, subverconem, narraconem, &c.

Qm, qm, qd, q, c, b, l, t, p, p, m, n, s, s, d, rd, tr, bz, d.

Memorati-  
on.

Quem, quam, quod, que, cer, ber, ter, tra, per, pra, pro, Mer, ner, ver, us, um, rum, tur, bus, dum, di, do,

Abbre-



## Of Abbreviations.

### *Abbreviations and Contraction of Words.*

Sometimes Words are abbreviated at a,  
especially when m follows.

**A**T (a) as una vacca, unam vaccam,  
Ec.

At (b) as nob, vob, Octab; nobis, vobis,  
Octabis, Ec.

at (c) as dic, Dic, Iustic, fac, Scoc, franc;  
dicit, Dicecomes, Iusticiarius,  
facias, Scotia, Francia, Ec.

at (d) as defend for defendit, respond for re-  
spondendum, Ec. so p̄d for p̄-  
dictus, p omnes Calus.

at (e) as h̄e for h̄ebe; but this seems to be  
a Contraction rather v̄d f̄a, venire  
facias.

at (f.) as def. for defendens, Norff. Suff.  
Norfolcia, Suffolcia, Ec.

at (g) as p̄leg de p̄sequend, Ec. atting for  
attingunt, custag, Ec.

at (h) as attach for attachiatus.

at (i) as Ep̄d for Episcopi; but this seems  
to be a Contraction. P̄d p̄d, P̄ist  
p̄rius.

at (l) as Cule, bill, ill, Angl, fidel, Capital;  
Culpabilis, villa, illa, fidelis,  
Capitalis, Ec.

at (m) as Westm̄ for Westmonasterium,  
sum̄ for summonitus.

at (n) as ven̄ p̄ Attoz̄n, for venit per At-  
toznatum, Ec.

## Of Abbreviations.

- at (ō) as pō, lō suo ; ponit, loco suo.  
 at (p̄) as sup̄ for supra.  
 at (cū) as cumq̄ for cumque.  
 at (ī) as p̄p̄i for p̄p̄ia, Cū, injū, futur, &c.  
 at (cō) as Cōs̄ for Consideratum, p̄mis̄ for p̄missa.  
 at (r̄) as requis̄ for requisitus, p̄f̄ac for p̄f̄atus, &c.  
 at (d̄) as Aur̄d̄, argent̄d̄, denarīd̄, &c.  
 at (x̄) as p̄x̄ for p̄roximus, p̄ omnes casus.  
 at (p̄) as p̄ for p̄roman.  
 at (z̄) as m̄chandiz̄ for merchandiz̄, &c.

*Note,* 'Tis said, a Word that is written short, or abbreviated without a Dash, is not good ; because the Dash or Turning up of a Stroke, is the general Mark to distinguish an abbreviated Word from a Word at length. *Style's Pract' Reg.* page 351.

Neither ought the Dash or Turning up to be misplaced, as heret and not heret, h̄dit and not h̄uit, tēntum and not tēntum, tris and not tris̄ ; for where the last Syllable is at length, the Dash or Turning up ought not to be made at the end of it.

*Proper Names Abbreviated and Contracted.*

**A**bus for Abrahamus; so Abzi, Abzō, Abzm, &c.  
 Alexr, for Alexander; so Alexrd, Alexrō, Alexrm.  
 Andr for Andreas, p omnes Casus.  
 Anthus for Anthonius; so Anthi, Antho, Anthum.  
 Bapta for Baptista, Baptd for Baptiste, &c.  
 Barthus for Bartholomeus; so Barthi, Bartho, Barthum.  
 Benjamīd for Benjaminus, p omnes Casus.  
 Benedus for Benedictus, Benedēi, Benedō, Benedūm, &c.  
 ꝥ'poserus for Christophorus; so ꝥ'poseri, ꝥ'posero, ꝥ'poserum.  
 Davīd p omnes Casus, and so of other Hebrew Names.  
 Edus for Edmundus, so Edd, Edō, Edund.  
 Edus for Edwardus; so Edrd, Edrō, Edrdm.  
 Ephraim in omnibus.  
 Elizabeth for Elizabetha in omnibus.  
 Francus for Franciscus, Franci, Franco, Francum.  
 Galsrus for Galsridus, Galsrd, Galsro, Galsrum.  
 Gilbtus, so Gilbti, &c. her being contracted in the middle in most Words.

## Of Abbreviations.

Godfrus for Godfridus; so Godfrd, Godfro', Godfrum.

Humphrus or Humfrus for Humfridus, so Humfrd, Humfro', Humfrum.

Johes for Johannes; so Johis, Johi, Johem.

Michis for Michaelis; so Michi, Michem.

Nichus for Nicholas, Nichi, Nicho, Nichum.

Phus for Philippus, Phi, Pho, Phum.

Ricus for Ricardus, Ricd, Ricó, Ricm.

Robtus for Robertus, Robti, Robto, Robtum.

Stephus for Stephanus, Stephi, Stepho, Stephum.

Waleus for Walterus.

Willus for Gulielmus or Willielmus, Willi, Willó, Willum.

Wilfrus for Wilfridus, Wiefri, Wiefro, Wiffrum, &c.

*Common Words contracted or abbreviated.*

**A**bbid for Abbatia; so Abbie, Abbiam, &c.

Ads for ad lectam.

Animarum for animarum.

Als for alias.

Archus for Archangelus, Archi, Archo, Archum, &c.

Archiepus for Archiepiscopus, Archiepi, Archiepo, &c.

Appoie,



**Appo<sup>it</sup>** for appositus p omnes Casus, id est, for any Case of that Word.  
**Asses<sup>s</sup>** for assessatus, p omnes Casus.  
**Ar** for Armiger p omnes Casus.  
**Assign<sup>d</sup>** for assignatus, p omnes Casus.  
**Amia<sup>d</sup>** amila; Amias, Amilas.  
**Assid<sup>d</sup>**, assidunt, &c. } Or for such Case or  
**Atto<sup>z</sup>**, Atto<sup>z</sup>natus, &c. } Person as the sense  
**Atting<sup>d</sup>**, attingunt, &c. } and Latin requires.  
**Ballia**, Balliba, Ballius, Ballibus,  
 Ballium, Ballibum.  
**Bar**, Baronettus, p omnes.  
**Bill**, Billa, &c. p omnes.  
**Bon<sup>d</sup>** bonus, &c. p omnes Casus.  
**btus**, beatus, beti, bete, bto, btrum.  
**Bre<sup>d</sup>**, brebe, bzis, brevis, bzi, bzia, bzium,  
 bzibz, &c.  
**Clicus** Clericus, Clici, Clico, Clicum.  
**Clin** clausum, cli, clo, clis.  
**Cois<sup>d</sup>** communis, cod, coem, coes, coibz.  
**Compum** computum, comp<sup>d</sup>, compa, com-  
 pi<sup>a</sup>.  
**Con<sup>s</sup>** for consideratio, consuetudo, (conside-  
 ratum, &c. which is doubtful.)  
**Crin<sup>d</sup>** crastinum, cr<sup>d</sup>, cr<sup>o</sup>.  
**Cont<sup>d</sup>** for continuatio & continens, conti-  
 nuendo, doubtful. u<sup>u</sup>  
o<sup>f</sup>  
**Cue** Curia, p omnes Casus.  
**Dnus<sup>d</sup>** Dominus, Dnd, Dno, Dnm, Dno<sup>z</sup>,  
 Dnos, Dnis.  
**Deus** datus, ded, dec, deo, dem, deam,  
 dea, deo<sup>z</sup>, &c. deis.  
**Debum** debitum, debi, debo, deba, debo<sup>z</sup>,  
 debis.  
**Def**, defendens, defris, defrd, deftem, &c.  
Defcus

## Of Abbreviations.

Defcus defectus, defcū, defcū.

Dilcus delectus, dilci, dilco, dilem.

Dīco Dominico, Dñicum, Dñica, &amp;c. in

Dīco suo ut de feodo.

Ecclia Ecclesia, Eccle, Ecciam, &amp;c.

Effcus effectus, effcū effectū, &amp;c.

Eis eidem..

Exaiāte examinatur.

Extpōit extrapōitus, p omnes Casus.

Exec for Executor &amp; Executio, which is doubtful. (fcis.)

Fcus factus, fcd, fco, fcm factum, fcd, fcoꝝ,

flus falsus, fli, flo, flum, floꝝ, flis.

feod feodus, p omnes Casus.

fris fratris, frem, frd, fres, frium, fribus.

Gavis gavisus, p omnes Casus.

Gen generosus, p omnes Casus.

Gendal gendalis, p omnes Casus.

gtis gratis.

Gꝝa gratia, gre for grave.

Heas habeas, het habet, hens habens,

hent habent, hend habendum.

here habere, huit habuit.

Hoies homines, hois hominis.

Humod hujusmodi.

Iō ideo, ibm ibidem.

Ipē ipse, ipm ipsum.

Incrē incrementum.

Ingrus ingressus.

Imppm imperpetuum.

Instanc instantia, p omnes Casus.

Iui Jurator, p omnes Casus.

Iustic Iusticiarius, p omnes Casus.

Lac Latitat, &amp;c.

Reglis

## Of Abbreviations.

II

**Leglis** legalis, **legte** legale, **legtia**, **leglium**,  
**leglib<sup>9</sup>**.

**Libe** libere, **libtas** libertas.

**Litet** liceret.

**Littime** legitime.

**Lra** litera, **lre**, **lram**, **lra4**, **lras**, **lris**.

**Mia** misericordia; Et **pd** Def. in **mia**, **Ec**.

**Mid** minime.

**Millimo** millesimo, **Ec**.

**Magi** Magister.

**Mari** Marese, **Marechallus** **Marechal-**  
**lie**, **custodi** **Mare** **Marese**, **Ec**.

**Midds** Middlesex, **Die** **Midds** **latm**.

(viz. **Die** **Duncomb**, **Ec**.)

**Mis** misis, **p mis** & **custag** **luis**, **Ec**.

**Nari** narratio, **p omnes** **Calus**.

**Natlis** natalis, **natle**, **Ec**.

**Nob** nobis.

**Nr** noster, **nrd** nostri, **nrnd** nostrum.

**Nsen** nomen, **nois** nominis, **noie** nomine.

**Noiati** nominatur.

**Nup** nuper.

**Nungm** nunquam.

**Oes** omnes, **ois** omnis, **oiti** omni, **oem**,  
**omnem**, **oia**, **oiim**, **oibz**.

**Oio** or **oitio** omnino.

**Ohiot** omnimodum.

**Omit** omittas, **Ec**.

**ppum** perpetuum.

**Pria** **Parris**, **Prd**, **Pzem**.

**Pria** for **Patria**, **Priam**.

**pd** **predicus**, **p omnes** **Calus**.

**peie** **pteritus**, **p omnes** **Calus**. (**plitis**.)

**Plitim** **placitum**, **pliti**, **plito**, **plita**, **plito4**,

**pr** **proximus**, **p omnes** **Calus**.

**prea** **postea**.

**ppr**

## Of Abbreviations.

pp̄i proprius, &c. p omnes Casus.

pp̄t propter.

Pleg de p̄s Plegij de prosequendo.

pt̄m pertinens, pertinentia, &c.

Po' lo' suo, ponit loco suo, as in a Warrant of Attorney.

Parl Parliamentum, &c. p omnes Casus.

Qm̄ quam, the Conjunction properly ; but 'tis used indifferently.

Quer querens, p omnes Casus.

Querel querela, p omnes Casus.

Qd̄ for quod the Conjunction, but quod the Adjective ought to be at length ; but it is used indifferently, but not properly.

Quibuscunq; quibuscunque ; but rather quibuscunque properly.

Ad Recoḡ ad recognoscendum, Et qui nec, &c. ad recoḡ, &c. quia tam, &c.

Respectus respectus, resp̄m̄, respectu, &c.

Respons, responsu.

Recōria Recōria, Recōrie, Recōriam, &c.

R̄s R̄nd R̄nd, Regis Regina Regine, &c.

R̄nd Regni, Anno R̄nd D̄nd & D̄nd Willi

& Marie, &c. or Anno r̄ni D̄ni R̄s nunc.

Rōne ratione.

Rōnabilis rationabilis, ro'nabilem, &c.

Sabti Sabbathi.

Sacrm̄ Sacramentum, Sacrd, Saero', Sacra, &c.

Salm salutem, Dic M̄idds saltm, ut antea

S̄us Sanctus, Sed Sancti, Sco', Sed, Sco', S̄is.

Sedus secundus, sc̄di, sc̄do, sc̄dm, &c.

S̄cium Scaccarium, S̄cid, S̄cid' &c. Anglice, the Exchequer Court, &c.

Sile

# Of Abbreviations.

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Sile simile, filis, fili, filie similiter, filia, filib<sup>9</sup>  
 Spificae specificatus, p omnes Casus.  
 Sup<sup>9</sup>dcus supradictus, &c.  
 Suppoie suppositus, p omnes Casus.  
 Summ<sup>9</sup> summonitus, summ<sup>9</sup> fuit ad re-  
 spondend<sup>9</sup>, &c.  
 Sp<sup>9</sup>ialis specialis, sp<sup>9</sup>ialem, sp<sup>9</sup>iale, &c.  
 Sp<sup>9</sup>ualis spiritualis, sp<sup>9</sup>ualem, &c.  
 T<sup>9</sup>le tale, t<sup>9</sup>lis talis, &c.  
 Tit<sup>9</sup>us titulus, tit<sup>9</sup>i, tit<sup>9</sup>o, tit<sup>9</sup>um, &c.  
 T<sup>9</sup>ntum tenementum, t<sup>9</sup>nti, t<sup>9</sup>nto, t<sup>9</sup>nta,  
 t<sup>9</sup>ntis.  
 T<sup>9</sup> for T<sup>9</sup>esse in Writs, as T<sup>9</sup> J. Holt W<sup>9</sup>il,  
 T<sup>9</sup> G. Treby, &c.  
 T<sup>9</sup>mid<sup>9</sup> T<sup>9</sup>erminus, T<sup>9</sup>mid, T<sup>9</sup>m<sup>9</sup>io, T<sup>9</sup>mid,  
 T<sup>9</sup>miis.  
 T<sup>9</sup>st<sup>9</sup>m & T<sup>9</sup>st<sup>9</sup>um for Testamentum, T<sup>9</sup>sti,  
 T<sup>9</sup>sto, T<sup>9</sup>sta, T<sup>9</sup>stis.  
 T<sup>9</sup>l<sup>9</sup>g<sup>9</sup> transgressio, p omnes Casus.  
 T<sup>9</sup>rid<sup>9</sup> T<sup>9</sup>ritas, p omnes Casus.  
 T<sup>9</sup>en<sup>9</sup> venit, &c.  
 T<sup>9</sup>ie T<sup>9</sup>icecomes, p omnes Casus.  
 T<sup>9</sup>id<sup>9</sup> T<sup>9</sup>idua, p omnes Casus.  
 T<sup>9</sup>is<sup>9</sup> or T<sup>9</sup>icid<sup>9</sup> for T<sup>9</sup>icinitas.  
 T<sup>9</sup>ize & T<sup>9</sup>idelt videlicet.  
 T<sup>9</sup>olune voluntas, &c.  
 T<sup>9</sup>le ultimus, p omnes Casus.  
 T<sup>9</sup>r<sup>9</sup> uroz, T<sup>9</sup>ris urozis, T<sup>9</sup>rd, T<sup>9</sup>rcm, &c.  
 T<sup>9</sup>est<sup>9</sup>m T<sup>9</sup>estmonasterium.  
 T<sup>9</sup>icim duodecim.  
 T<sup>9</sup>va quindena, T<sup>9</sup>vam quindenam, &c.

Note, There are no Dipthongs used in  
 Law Pleadings.

Number



## Number.

**N**Ote, 'Tis reckoned more Clerk-like to write all Sums and Figures, till past Five at length, as *primo*, *secundo*, &c. but after Five in Numeral Figures, as VI. But this is meant as to Presidents, *Tesse* of Writs, and such things as are not of Record, for there all Sums ought to be at length in Words.

I.	1	XVIII.	18
II.	2	XIX.	19
III.	3	XX.	20
IV.	4	XXX.	30
V.	5	XL.	40
VI.	6	L.	50
VII.	7	LX.	60
VIII.	8	LXX.	70
IX.	9	LXXX.	80
X.	10	XC.	90
XI.	11	C.	100
XII.	12	D.	500
XIII.	13	M.	1000
XIV.	14	M DC.	1600
XV.	15	M DCXCIX.	1699
XVI.	16	MDCC.	1700
XVII.	17	&c.	

i have

## Difference in Abbreviations.

15

I have the rather set down these things, because you may meet with them and many more thus Abbreviated and Contracted, especially in the Business of the *King's-Bench*, which is not so nice and exact as that of the *Common-Pleas*, who observe stricter Rules in their Writing, and generally write fairer and with much less Abbreviations or Contractions than the *King's-Bench*.

As for Example ; If Words have but Five Minims at the end, as *cum*, *dum*, *clausum*, *enodum*, *nondum*, to write them at length. If above Five Minims, then to turn up the last, as *unū*, *mediū*, *mesuagiū*, *rotagiū*, &c.

So where Words have above Five Minims, in the Middle to use a Dash over instead of an *m*, as for *immunis*, write *imūnis*, for *commodum* write *comodum*.

To use a round U or V Consonant in the Beginning of Words, and also before Vowels in Words, either in Secretary or Court-Hand for the readier distinguishing it from an *n*, as *ŭbabit*, *buldabit*, *psormabit*, *pimplebit*; and not *ŏbabit*, *uuldabit*, *psormauit*, *pimpleuit*.

To dash the Letters *h*, *h*, and *i*, in the Middle or End of the Words, where they are used for Abbreviation, through the Top thus, *h̄* her, as *Robtus*, *h̄* here, *ī* videt, *Angt*, &c. (except the Nominative Cases of Hebrew Names ending in *i*, as *Abel*, *Daniel*, *Gabriel*, &c. and all Surnames ending in *ll*, as *Bell*, *Flabell*, &c.

*L. simplex.*

*L. duplex.*

Where

## Difference in Abbreviations.

Where Words are in both the Singular and Plural Number, to write the same at length, as *Iusticiarius* & *Iusticiarij*, and not *Iustic* for both; so *Assignatus* & *Assignati*, *Assignee*, & *Assignees*, and not *Assign* for both.

To write *existens*, *tenens*, and the like at length, for the Nominative Case, and not *existen*, *tenen*, &c.

To write all Towns and Surnames at Length, as *Milberton*, *Culpeper*, not *Milston*, *Culpep*: and not to use *p* for *par*, as *pochia* for *parochia*, *ptes* for *partes*, and the like.

Also not to abbreviate Words whose Nominative Case ends in *sio* or *tio* at the *n*, for other of its Cases, as *narratō* for *narrationis*, *narrationi*, *narrationem*, *assumtō* for *assumptionis*, &c. but to write them at Length, dashing over the *co*'.

The Clerks of the *King's-Bench* and *Common-Pleas* differ also in their Forms, as follows, viz.

*King's-Bench*

*Kings-Bench Forms.*

*Common Pleas Forms*

1. **A** Pud Lond, Videlt in Paroch bte Marie de Arcub<sup>9</sup> in Ward de Cheape London.

2. Anno Regni Dnd Willi Tertii nunc Regis Angl, ec. duodecimo.

3. Unde petit Iudicid si p<sup>o</sup> Quer accione suam p<sup>o</sup> inde s<sup>u</sup>s eum here seu manutene- re debeat, &c.

4. Quoad Venire Vi & Armis seu quicquid quod est contra pacem dice Dnd Regis nunc die q<sup>o</sup> ip<sup>o</sup> non est inde Culpa- bilis.

5. Et de hoc p<sup>o</sup> se sup Priam Et p<sup>o</sup> \* Quer filie, &c. Jo ben inde iur coram Dno Rege ap' West' die mcurij pr' post tres septidnas sed Trid Et qui nec, &c. ad recogd, &c. quia tm, &c. idem dies d<sup>o</sup> est partib<sup>9</sup> p<sup>o</sup> ibm, &c.

1. **A** pud Lond in Paroch bte Marie de Arcubus in Warda de Cheap.

2. Anno Regni Dni Regis nunc duodecimo.

3. Unde per Iudicid si p<sup>o</sup> Quer acco- nem suam p<sup>o</sup>dicam vers<sup>u</sup>s eum here de- beat, &c.

4. Quoad Venire Vi & Armis die q<sup>o</sup> ip<sup>o</sup> in nullo est inde culpabilis put p<sup>o</sup> Quer sup<sup>o</sup>ius vers<sup>u</sup>s eum queritur.

5. Et de hoc p<sup>o</sup> se sup Priam Et p<sup>o</sup>dic<sup>o</sup> \* Quer filie Jo p<sup>o</sup>cepe est die q<sup>o</sup> Venire fac hic a die sed Trinitar in tres sep- tidnas XII<sup>im</sup> &c. p quos, &c. Et qui nec, &c. ad recogd, &c. quia tam, &c.

\* Note, you write the Plaintiff's Name in- stead of Quer.

*Kings-Bench.*

If the Plaintiff take  
Issue, then

Et hoc per qd in-  
quirati p Priam &  
pd Def. filie, &c. Nō  
ven inde Iur, &c. as  
before.

Et heas ibi tunc  
hoc hze.

Cepit & abcarria-  
vit.

Decimo tertio, de-  
cimo quarto, decimo  
quinto, decimo sexto,  
&c.

Septemdecim, octo-  
decim, novemdecim.

Messuagium, Cotta-  
gium, Sigillae.

Et alia enormia ei  
intulit contra pa-  
cem dice Dñi Regis  
nunc; Ad dampnum  
ipius Queri decem  
Librarum Et inde  
pduc Sextam, &c.

cem, &c. Unde dic qd deteriozae est Et  
dampnum het ad Valenciam decem libr'  
Et inde pduc Sextam, &c.

*Common-Pleas.*

If the Plt take Issue,  
then

Et hoc per qd in-  
quirati p Priam Et  
pd Def. filie Nō pre-  
cept est Vic, &c. as  
before.

Et habeas ibi hoc  
hze.

Cepit & asportavit.

Tertio decimo,  
quarto decimo, quin-  
to decimo, sexto de-  
cimo.

Decem & septem,  
decem & octo, decem  
& novem.

Messuagium, Cota-  
gium, Signae.

Et alia enormia et  
intulit ad gbe dam-  
pnum ipius Quer'  
Et contra pacem  
Dñi Regis nunc, &c.  
And at the latter end  
of a Declaration, Et  
alia Enormia, &c.  
Ad grave dampnum  
&c. Et contra pa-

No.



Note, The Cursitors in the Cesses of their Writs, write *primo, secundo, tertio, quarto, quinto die*, in Words; afterwards in Numeral Figures, as VI. VII. VIII. IX. X. XI. &c. without an o over them, and not VI<sup>o</sup>. &c. and the Year of the King's Reign at length: Also they write XV. for *quindecim* without [cim] over it; and this by some Clerks of the *Common-Pleas* is said to be the best Order, and advise the rest to conform to it as near as may be, the Cursitors Writs being the Foundation of Actions.

But upon what intrinsical Reasons these Differences are thus observed, and continued betwixt these two Courts, I leave to the Judicious.

There are also Clerk-like Contractions of English Words, as Adm<sup>r</sup>. Administrators, ag<sup>t</sup> against, Als<sup>s</sup> Assigns, Bp Bishop, Com<sup>rs</sup> Commissioners, Dr Doctor, Esq<sup>r</sup> Esquire, Exec<sup>ors</sup> Executors, Hon<sup>ble</sup> Honourable, Hd Honoured, Ind<sup>re</sup> Indenture, L<sup>d</sup> Lord, L<sup>dps</sup> Lordships, L<sup>re</sup> Letter, M<sup>d</sup> Memorandum, M<sup>r</sup> Master, M<sup>rs</sup> Mistress, Ma<sup>ty</sup> Majesty, ob<sup>t</sup> obedient, p<sup>d</sup> paid, Q<sup>er</sup> Quarter, S<sup>r</sup> Sir, Serv<sup>t</sup> Servant, S<sup>t</sup> Saint, y<sup>n</sup> then, y<sup>e</sup> the, y<sup>t</sup> that, y<sup>r</sup> your, Wp<sup>ll</sup> Worshipful, *cum multis aliis*.

Jan. January, Feb. February, Apr. April, Aug. August, 7<sup>ber</sup> Sepsemer, 8<sup>ber</sup> October, 9<sup>ber</sup> November, 10<sup>ber</sup> December.

Thirty days hath September,

April, June and November;

\* February hath twenty eight alone,  
And all the rest have thirty and one.

\* Except  
in Leap-  
year it  
hath 29.



A Tra.

A Mark made in the manner following, viz. ^ ( which is to shew where a Clause or Word left out, and interlined in Writing should come in ) is called a Tra, and seems to be derived from the Latin word Tra here to draw; because by it the words left out are signified to be there ( where 'tis placed ) drawn into the Writing.

The first part of the Young Clerk's time will be employed in filling up Writs, Copying Declarations, making up Issues, ingrossing Records and Entries, entering up Judgments, and making out Executions; in which no doubt his Master will instruct him: However he may many times in his Absence want some help, and be put to it to perform his Clerkship; therefore if it so happen, he may make use of such Directions and Forms as he shall herein find to his purpose.

And here it may be proper first to speak of the Four Terms, and their Returns for Writs.

*Of the Four Terms.*

Michaelmas Term

THree Weeks after *Michaelmas-day* is the Essoyn-day of *Michaelmas Term*, and the fourth day after inclusive is the first day of the Term, which is always the three and twentieth day of *October*, if it be not *Sunday*; but if *Sunday*, then the Four and twentieth, and endeth the Eight and twentieth of *November*, if not *Sunday*; and if *Sunday*, then the Nine and twentieth.

*Hilary*

## Of the Four Terms.

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*Hillary* Term beginneth the Three and *Hillary* twentieth day of *January*, if not *Sunday* : Term.  
But more exactly, that day eight Weeks on which *Michaelmas*'s Term ended : Its *Essoyn*-day being *Jan. 20.* and endeth the Twelfth day of *February*, if not *Sunday*, &c. being always the same day of the Week that *Michaelmas*'s Term beginneth.

*Easter* Term beginneth the *Wednesday* Fort- *Easter* night after *Easter*-day : Its *Essoyn*-day being Term.  
*Sunday* before, but held on *Monday*, ( and therefore called the *Essoyn*-day,) and ends on *Monday* before *VVhit*sunday.

*Trinity* Term beginneth the *Friday* after *Trinity* *Trinity*-*Sunday*, being the same day of that Term.  
Month on which *Easter*-day fell on in its Month : Its *Essoyn*-day being *Monday* before, (for *Thursday* being *Corpus Christi*, it's pretermitted ) and ends on *VVednesday* Fortnight after the Term beginneth.

Note, The *Essoyn*-day is regularly the first day of the Term, so accounted in Law ; but the fourth day after is a Day of Grace given by the Court, on which the Term is supposed to begin. *Vide postea.*

*Michaelmas* Term contains 5 VWeeks and 2 Days, and hath 6 Returns.

Common Pleas.

1. A die Scd Michis in tres septianas.
2. A die scd Michis in und menssem.
3. In Crasino Animarum.
4. In Cro scd Martini.
5. In Octab scd Martini.
6. A die scd Martini in quindecim dies.

Kings-Bench.

- Die (Lune) pr' post tres sept Scd Michis.
- Die (Sabi) pr' post Menssem scd Michis.
- Die (Sabi) pr' post Crasino Animarum.
- Die (Lune) pr' post Crasino scd Martini.
- Die (Lune) pr' post Octab scd Martini.
- Die (Lune) pr' post Quinded scd Martini.

Mentioning a day certain.

*Hilary*

Of the Four Terms.

*Hillary* Term contains Three Compleat Weeks, and hath 4 Returnes.

1. In Octab scd Hillaryj.
2. A die scd Hillaryj in quindecim dieb.
3. In Cró Pur bte Marie.
4. In Octab Pur bte Marie.

In Common-Pleas.

But in King's Bench, in all

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

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Writs not Returnable ubique, say

## Of the Four Terms.

*Easter* Term contains 3 Weeks and 6 Days, and hath 5 Returnes.

1. A die Pasche in quindecim dieb.
2. A die Pas in tres Septimanas.
3. A die Pasche in und menssem.
4. A die Pasche in quinqs Sept.
5. An Crastino Ascensionis Dñi.

In Common-Pleas.

But in King's Bench in all

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

Writs not Returnable ubique, say

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Writs not Returnable ubique, say

Writs not Returnable ubique, say

Die . . . . . pr' post Quinded

Pasche.

Die . . . . . pr' post tres Sept

Pasche.

Die . . . . . pr' post menssem Pasche.

Die . . . . . pr' post quinqs Sept.

Die . . . . . pr' post Crm Ascensio

Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

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Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

Dñi. Mentioning a day certain.

Trinity Term wants One day of 3 Weeks, and hath 4 Returns.

1. In Crō scđ Trinitatis.

2. In Octab scđ Trinitatis.

3. A die scđ Crīd in quindēcī  
dies.

4. A die scđ Crīd in tres Sep-  
tīanag.

In Common-Pleas.

But in King's-  
Bench, in all

Writs not Re-  
turnable ubi-  
cunque, say

Die . . . . pr' post Crīd see  
Trinitatis.

Die . . . . pr' post Octabas scđ  
Trinitatis.

Die . . . . ppor' post Quindē scđ  
Trinitatis.

Die . . . . ppor' post tres Septiā-  
nag scđ Trinitatis.

Mentioning a day certain.

So that the Common-Pleas Writs generally  
are Returnable on no day certainly ex-  
pressed, but only coram Justit nre apud  
Westm a die scđ Michis in tres septiā-  
nag, &c. Except Writs not by Originals,  
as Attachments of Priviledge, which must  
have a Day certain.

And so that the King's-Bench Writs are  
mostly returnable on some certain Day  
of the Week next after some certain Re-  
turn, as die Lune pr' post tres septiānag  
scđ Michis, and the like, except the Pro-  
ceedings be by way of Original.

And

Of the Four Terms.



And note, That in each Return are usually four Special Days; 1. Of Effoyns: 2. Of Exceptions: 3. Retorna Brebium: And 4. Of Appearances, which is the last day of the Return.

Where the Effoyn-day falling on *Sundays*, are held on *Mondays*, as *Quind Pas*, *Tres Pas*, *Mens Pas*, *Quinq Pas*, *Oce Trin* *Quinden Trin* & *Tres Trin*; then the day of Exception, and the day of Retorn Brebium, are both the same day, viz. *Tuesday*: So likewise when any Days of Appearance in *Michaelmas* or *Hillary* Term falls on a *Wednesday*, or are put off by any Holy-day, *All-Souls-day*, *Candlemas-day*, &c.

Therefore the Effoyn-day of every Term is said to be (in) the Return, and every day after is said to be (post), as *die Lune* in *Octob scd Trin*, *die Martis pr' post* *Octob scd Trin*.

And note further, That all Proccs both before and after Judgment, upon *Latitat*, *King's Bench*, *Writs*, *Plures*, *Bill of Middle*, *Distringas* *nuper Die*, *Habeas Corp' sup Cepi corpus*, & *Habeas Corpus ad fac*, & *Rec*, must be retornable at days certain, and may be so made upon any day in Term, which is *die Juridicus pr' post* any of the aforementioned Returns.

And



K's Bench.

And Note, That the same day of the Week that every Term begins, is a sure day to make Writs retornable upon, through all the Retorns of every such Term, (except the last Retorn.)

But *Dies Dominici*, as *Sundays*, and *All-Saints*, *All-Souls*, the first and second of *Nov.* in *Michaelmas*'s Term; the Feast of the *Purification*, the second of *February*, in *Hillary* Term; *Ascension-day* in *Easter*-Term; and *Midsummer-day* in *Trinity* Term (if it so happens) are not *Dies Juridici* in the *King's-Bench*.

Note also, If you make your Writs in the *King's-Bench* retornable upon the *Essoyn*-day of any Retorn in the Term time, as you may do, you must also express the Day of the Week certainly, as *die Iovis in mense Michis*, *die Iovis in Cro' Animarum*, &c. but this is seldom used but upon Trials.

Note also, That the Writs of the *King's-Bench* retornable *ubicunque*, as in *Cro' scd Trin' ubicung*; &c. in *Octab scd Trin' ubicung*; &c. and the like, are Writs grounded upon Originals out of *Chancery*, and upon Writs of *Error* out of the *Common-Pleas*, and out of *Inferiour Courts*: *Process* to the *Outlawry*, *Retorn habendum*, *Capias in Mi-thernam*, *Audita Querela*, *Accedas ad Curiam*, and such like.

So

## Of Retorns.

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Common-  
Pleas.

So generally in the *Common-Pleas* all Original Writs in Actions are Retornable upon a Retorn, as in *Crassino* *scd Trin*, a die *scd Michis* in tres septimanas, &c. and so all Proceſs and Proceedings thereupon.

But all Writs and Actions, not by Originals out of *Chancery*, and Proceedings thereupon; as Attachments of Priviledge, Bills against priviledged Persons, Prohibitions, and the like, are retornable, and have Continuance to Days certain, as *die Lune* in mense *Pasche*, *die Martis* *pr* post mensem *Pasche*, &c.

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The

The Counties of *England* and *Wales* are thus written, viz.

*England.*

<b>B</b> erks.	} or {	<b>B</b> ed	<b>L</b> incoln
<b>B</b> erks		<b>B</b> erk	<b>M</b> idd
<b>B</b> ucks		<b>B</b> uck	<b>M</b> onmouth
<b>C</b> anteb			<b>H</b> ozff.
<b>C</b> est			<b>H</b> ozht
<b>C</b> ornub			<b>H</b> ozthumbr
<b>C</b> umbr			<b>H</b> otingh, or <b>H</b> ote
<b>D</b> erb			<b>C</b> ron
<b>D</b> evon			<b>R</b> ut
<b>D</b> ors			<b>S</b> alop
<b>D</b> unelm			<b>S</b> omrs
<b>E</b> sex			<b>S</b> taff.
<b>E</b> bor			<b>S</b> uff.
<b>G</b> louc			<b>S</b> ure
<b>H</b> eref.			<b>S</b> uffex
<b>H</b> ertf.			<b>S</b> ucht or <b>S</b> outhe
<b>H</b> unt			<b>W</b> arr
<b>K</b> anc			<b>W</b> estm
<b>L</b> anc			<b>W</b> igo
<b>L</b> ice			<b>W</b> iltes

*Wales.*

<b>A</b> ngles	<b>F</b> line
<b>B</b> recon	<b>G</b> lamorga
<b>C</b> ardiga	<b>M</b> erioneth
<b>C</b> armarthen	<b>M</b> ountgome
<b>C</b> arnarvon	<b>P</b> embrok
<b>D</b> enbigh	<b>R</b> adnor

Cities

Cities and Towns having a Sheriff or Sheriffs.

	<b>B</b> ristol Cobentē Cestr Eborā Glouc Lincoln, Londin Norwic Norf Norf	habent du- Sed Quere os Dices comites.
Cibitas		
Villa		

	Cantuar Eron Rich Wigorn	habent u- Sed Quere ud Dices comitem.
Cibitas		
	Kingston sup Hull Southton Pool Robi Castri sup Tinam.	habent u- Sed Quere ud Dices comitem.
Villa de		

*Of the Judges and Officers of the King's-Bench Court.*

**T**HE Lord Chief Justice, and Three other Judges.

The Clerk of the Crown-side, with his Secondary, Clerks, &c.

Two Chief Clerks or Prothonotaries now, (sometimes but one,)

Their Secondary or Deputy.

The *Custos Brevium*.

The Philazers.

The Master of the Seal-Office.

The Clerk of the *Nisi prius*.

The Clerks of the Papers.

The Clerk of the Rules.

The Clerk of the Bails and *Postea's*.

The Clerk of the Declarations.

The Clerk of the Cocquets.

The Signer of the *Latitat*, and other Writs.

The Signer and Sealer of the Bills of *Middlesex*.

The Clerk of the Errors.

The *Custos Brevium's* Under-Clerk of the Inner-Treasury.

His Under-Clerk of the Outward-Treasury.

The Marshal.

The Deputy-Marshal.

The Entering-Clerks and Attornies of the Court.

The Tiptaves.

The Porter and Cryers.

of

Of the Laws of England.

IT is not amiss that our Young Clerk should be informed, at least in general, wherein consists the Law which he is to practice.

Towards which purpose he may observe, That the Municipal Law of *England* consists of Three parts,

Viz. { *Common Law,*  
      *Customary Law, and*  
      *Statute Law.*

First, The *Common Law*; which is nothing else but the General Customs of the Kingdom, which were in force before the Coming in of *William* the Conqueror, and never were, nor yet are Collected or Reduced into Writing, at least by any publick Authority.

Secondly, *Particular Customs* of certain Places, which only in those Places obtain the force of a Law: As the *Customs* of *Kent*, where the Lands which they call *Gavel-kind Lands*, by that Custom descend to all the Heirs-Males in equal Proportion; and several other Customs in force only in that County. The *Customs* of *London*, which are very numerous. The *Customs* of Mannors, by which some Lands descend to the Youngest Sons; this Custom is called *Burrough English*. And these private or particular Customs differ from *Common Law* in this, That they only pass for Law in those Places



## Of the Laws.

Places where they have been received and allowed for *Customs* beyond the Memory of Man. Whereas the *Common Law* is the General Customs in force all the Kingdom over, unless altered by Act of Parliament, and not restrained to one particular Place.

Thirdly, The *Statute Law*, or *Acts of Parliament*; which are Bills passed by both the Honourable Houses of Parliament, with the Royal Assent thereto.

And these are all comprehended in the Dystick,

*Jus commune vetus, mores, consulta Senatus  
Hæc tria jus statuunt terra Britannia tibi.*

It may perhaps be said, That part of the *Civil Law* and the *Canon Law*, are also a part of the Laws of *England*, they being in force in Causes litigated in the *Spiritual Courts* and Court of *Admiralty*; but not being in force in our Courts of *Common Law*, we do not take notice of them as the Municipal Laws of the Land.

Also *Adjudged Cases* in approved Reports, are generally held for Law in the Courts of Justice; and even the *Rules of Court* do pass for Law in the Courts where they are made, at least they must be looked upon so by the Clerks and Practicers: As for Instance; If an Attorney do not plead in time, according to the Rules of the Court, *Judgment* and *Execution* shall often go against his Client without Remedy.

Of

## Of Actions.

**A**S to the Commencing of an Action in the Court of *King's-Bench*, you must first consider whether the Defendant be lyable to an arrest; for Peers of the Realm are not to be Arrested, Corporations and Companies cannot be arrested, but against these you must proceed by *Distringas*, of which more hereafter.

Also Clerks of the Office, and Attornies, and priviledged Persons belonging to the Courts of Justice are not to be arrested, but must be Sued in another manner; for if they are arrested, they may plead their Writ of Priviledge, and come off without Bail. Against these you are to File a Declaration, of which you must deliver them a Copy, and they must plead the same Term, if you deliver it in time and give Rules. And so it is, If a Clerk or Atturney be Plaintiff, the Defendant must give a Plea the same Term, and cannot imparle to the next, if the Declaration be delivered in time and Rules given, tho' the Action be for Debt on a Bond, and not Fees. And many unexperienced Practisers have been caught for not knowing this Rule, and their Clients taken in Execution when they least feared it. And you must not only consider the Persons that are to be arrested, but also the palaces where they live. For instance, a *Latitat* is not in force in *Wales*, nor in the *County Palatine*, as is commonly known; but

D                      neither

K's Bench.

neither is it in force in the *Cinque-Ports* or their dependancies, as *Rumny*, *Hastings* *Faversham* &c. so that if the Suit be against any living in these places, your best way is to proceed by *Quo minus* out of the *Exchequer*.

But Note, upon a special *Latitat* into a *County Palatine* made out according to the Ensuing form, you may procure the same to be executed in the *County Palatine* viz.

*Gulielmus tertius, &c. Camdario nro Com Palatini nri Cestrie sive ejus Locu ibm tenenti salutem Cum Vitz nro Midd' nuper precepimus, (Et ut in al usq in Com) vro Jo tibi precepimus qd hze nrum sub sigill Com nri Palatini pred' debito modo conficiend et Dic Com Cestrie dirigend mandari fac eid' Vitz qd capiat predict A. B. si invene fuerit in balliva sua, &c.*

So, then taking it for granted, that the Defendant is liable to an Arrest, and that he doth not live in any of these exempted places, and that the Plaintiff is not a Clerk, or Attorney of the Court, (for then he may have an Attachment of Priviledge to Arrest the Defendant.) insueth Cases, generally, the first Process of the Court is a Bill of *Middlesex*, and that is to Arrest the Defendant in *Midd'x* only, and not elsewhere: But if the Defendant live in *London*, or in any other County, then you must make out a *Latitat* directed to the Sheriff, or Sheriffs of that place.

Which *Latitat* also supposed, a Bill of *Middlesex* to have been first sued out.

But

## Of Arrests and First Process.

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K's Bench.

But for the better understanding of the Nature and Reason of this Bill of *Middlesex*, we must repeat something of the Antient practice of the Court which originally followed the King, and was kept wherever he was in *England*; and that is the Reason, that when you Sue by Original, whereof you will herein find some Instructions in the Title Ejectment, then all your Writs must be returnable *ubicunque tunc fuerimus in Angl* and not *apud Westmonasterium*, which antient practice is still sometimes very necessary, persuing the old method used before the Court was settled at *Westminster*, after that Settlement made in the Reign of this Bill of *Middlesex* was given to Arrest Persons that lived in *Middlesex*, and if they could not be found there, the Sheriff returned a *Non est inventus*, and thereupon a *Latitat* issued to take the Defendant in any other County, so that the *Latitat* was in the Nature of a *Testatum*. Bill of *Middlesex*, and did always suppose a Bill of *Middlesex* to be taken out and returned before; and so it is recited in the *Latitat*, as you may observe by the word *Testatum* therein, tho' the taking out of the Bill of *Middlesex* thereupon hath been long since omitted.

And here you must observe, That tho' it is generally called a Bill of *Middlesex*, yet it may happen to be a Bill of any other County: As for instance, when the Court of *King's Bench* was held at *Oxford* by reason of the Visitation, then it was a Bill of *Ox-*

D 2

*ford*,

K's Bench.

*ford*, and so supposed in the *Latitat*, and not *Die Mids*: And also observe, that the Ancient practice was, that the Plaintiffs Declaration, which is also called a Bill (as in the Record of *Nisi prius*, (viz') *Protulit hic in Cuē tunc ibm quandam Billam suam*, &c.) being Engrossed in Parchment, was filed in the Office (as it is still used in many Cases) and very often the Return of the Bill of *Middlesex* was Endorsed upon it: So that when the proceeding is not by Original, nor by *Disringas*, which is against Peers of the Realm, Corporations and Bodies Politick, nor against Clerks of the Office, and Attorneys and Prisoners; The first Process generally used is this Bill of *Middlesex*, The Form whereof follows.

The form of the Bill of *Middlesex*.

You may  
put 4 Def.  
in one  
such Writ.

*Middx* ff. **P**recept est Die qđ capiat A. B. si &c. Et cum salvo, &c. ita qđ heat corpus ejus coram Dñō Rege apud Westm die Mercurij pr' post tres septimanas Sed Michis [the day of the Return] ad respondend' C. D. de Plito tñgē Et heat ibi tunc hoc Precept.

p Bill. Holt & Coleman.

And on the backside write the Clerk's Name that Sues it out, and the day of the Month.

But



But if the Action requires good Bail, as K's Bench.  
for 10 pounds Debt or upwards; Then  
after the Words *De placito tnāgr*, you  
must add.

*Acciam Bille ipsius C. D. Etus p̄lat A. p*  
*B. pzo decem \* Libris de dōo scdm Cons*  
*Cur ipsius Dnd Regis coram ipso Rege*  
*exhibend Et heat, &c. (ut supra.)*

\* Or 15  
16, 20, 30.  
40 l. and  
the like, ac-  
cording as  
the sum is.

Or if there be any other special Cause for  
Bail, it must be added with an *acciam*  
*Bille*; for Trespas only will not  
hold the Def. to Bail. As

If for Trespas and taking away Goods, say,  
*p capciōe & asportaciōe Bonoz & Ca-*  
*talloz ipsius C. ad dampnū vigine libr'*  
*scdm, &c. as before.*

*p deteneōd Bonoz & Catalloz ipus In Detinue.*  
*C. ad Valene 40 l scdm, &c.*

In Trover,

*p conberciōe & dispositione Bonoz &*  
*Catalloz ipsius C. ad Valene 40 l*

In Covenant,

*p Fracciōe Conberciōd Ad dampnū*  
*ipus C. 60 l scdm cons, &c. as before*

Upon Promise,

*Acciam Bill ipus C. Etus p̄lat A. p*  
*C l p non p̄formatiōd p̄missiōd & as-*  
*sumptiōd ipsius A. scdm, (&c.) Or thus,*  
*pzo fracciōd p̄missiōd & assumptiōd ad*  
*dampnū ipsius C. 20 l (vel sic) p 20 l sup*  
*Assump.* which last is most usual: And by this  
means the Sheriff can take Bail accordingly.  
But in case the Cause of Action is for words,  
or Ejectment, or Trespas only, no special  
Bail is required. Yet if it be a dangerous  
Assault

K's Bench.

Assault and Battery, as the breaking a Man's Skull, the indangering the loss of an Eye or a *Maheme*, the Plaintiff may Petition one of the Justices, setting forth his Case, and the Judge as he sees Cause, will order the Defendant to be held to Bail, in such Sum as he shall think fit; and then tis usual to insert in the Writ *ac etiam bille, &c. p 20 l p ordin*: And the Plaintiff's Attorney ought to be careful, not to omit such holding the Defendant to Bail, lest after the Tryal the Defendant being Cast should absent himself.

Note, the Ad for Stamping says the Parchment must be Stamp'd before it be Written; but this is disused.

Having made your Bills of *Middlesex* on a piece of Parchment, (but you may buy Blanks ready for filling up) you must also make a Note on Paper, which you are to carry with your Writ unto the Office when you get such Writ signed: In this manner,

b m

*Widow M. Bill p C. D. & A. B. rec Mer-  
curij pr' post tres Sept Scd Michis.*

Pleadwell.

If it require Bail, you must mark the Paper Note with a *B\** over the Defendant's Christian Name, and an *M* over his Surname, and a stroke under both, as you see above.

B. M. signifies *boni mancip-  
toris*, or  
good Bail.

The

The Bill is to be signed at the Bill of *Mid-* <sup>K's Bench.</sup>  
*dlesex* Office (which is now kept in *New*  
Inn) and the Note to be left there ; for  
which Signing you pay in the Term  
time 6 d. in the Vacation 10 d.

Upon this Bill you must have a Warrant <sup>A Special</sup>  
at the Sheriff's of *Middlesex* Office, which <sup>Warrant is.</sup>  
costs 4 d. If the Defendant be not taken up- <sup>2 s. 4 d.</sup>  
on the first Bill, you may make an *alias* ;  
and if not upon that , then a *pluries* ;  
only laying *Precepe est Dic sicut*  
*alias* (or *sicut pluries*) *sibi precepe fuit*  
*qd' capiat*, &c. for (the Signing of) which  
Writ you ought to pay but 2 d. within a  
year after the( first or second ) Bill sued out.

The Form of a *Latitat*,

**W**illius tercius Dei Gra Angl' Scoe  
Franc & Hibnie Rex fidei Defen-  
sor, &c. Dic Somerset salu-  
tem Cum Dic nr'o Midx  
nu'p precipimus qd' capet C.  
D. & E. f. si inveniunt  
sent in Ballia sua & eos  
salvo custod' ita qd' heret  
corpora eor' coram nobis  
apud Westm ad certum  
diem jam p'terie ad respon-  
dend' A. B. de plaito t'grt ,  
\* accedat separat Bill ipsius  
A. versus prefat C. & E.  
pro decem Libris de debito se-  
cundum Cons Cui nr'o  
coram Nobis exhibend'

You may put 4 Defendants  
in one Writ ; but if there be  
but one Defendant , and your  
Blank is made in the Plural  
Number, you may put in *John*  
*Doe* or *Richard Roe* as a De-  
fendant, but take no notice of  
them in the Note for the Office.

\* If it be only in Trespass you  
must leave out the *Accedat* ,  
otherwise you must put in as  
is before directed in a Bill of  
*Middlesex*.

K's Bench.

**D**iculusque Die ne **W**idder ad diem illi nobis retorn **Qd' pd' C. & E.** non sunt inveni in Ballia sua super quo ex parte **pd' M.** in Cur nra coram Nobis sufficere testar est **Qd' pd' C. & E.** latie & discuti in Com \*tuo **Jo** tibi precipimus

\* If the County have two Sheriffs it must be Com' v'ro Jo' vobis precipim's, and so the rest in the Plural Number.

qd' capias eos si inveni fuerint in Ballia tua & eos salvo custod' ita qd' heas corpora eorum nobis apud Westm die Mercurij

rij por' post tres septimanas sed Cris adrespondend' p'fat M. de p'firo & Bill' pd' Et heas ibi tunc hoc h're Teste J. Holt **Qd' apud Westm 9 die Junij Anno Regni nri undecimo.**

If it be against several Defendants for

Holt and Coleman.

several unequal sums, then it must be *Ac etiam Bill' ipsius N. vers. prefat' Jo'hem pro . . . Libris & versus p'fat' R pro . . . Libris de deb'to scdm' &c.* But if the several sums be alike, you ? (say as above) *ac etiam sep' a'l Bill' ipsius, (&c)* or thus *Ac etiam Bill' ipsius A. vers. prefat C. & E. pro decem libr. de debito seperatim secund' (&c.)* See after.

You must make a Note on Paper in Court-hand, for the Office, thus.

**Sentis fl.s Ld p A. B. versus C. D.**

**B m**

**& E. F. rec Mercurij pr' post tres**

**Crif.**

Pleadwell.

marking it as above, if the Cause require Bail. The

The *Latitat* filled up, you carry it with *K's Bench* the Note to the King's Bench Office in the Temple, where your *Latitat* must be signed, for which you pay 2 s 6 d. and you must leave the Note with the Signer; and if it be in the Vacation, you must also enter the same in the \* Office Book, as you will see others there entred.

\* This Entry is not used of late.

Being Signed, you carry it to the Seal-Office (which is now in *Castle Yard* near *Holborn Bars*;) and he who Seals for the *King's Bench* will Seal it, and Stamp the day on the Back, for which you pay 7 d.

The next thing is to get a Warrant upon it from the Sheriff of the County.

If the Defendant cannot be Arrested upon the *Latitat*, you may sue out an *Alias Capias*, and if not taken upon that, then a *Pluries Capias*.

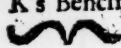
### The Form of an *Alias Capias*.

**W** Illus tercius Dei Gra Angl' Scoc  
 Franc & Hibnie Rex fidei Defens, And Note,  
 &c. Die Sonis saltem Precipimus tibi that if the  
 sicut alias tibi precepimus Quod capias Writ be in  
 C. D. & E. f. si invene fuerint in ballia tua made out  
 & eos salbo custod' ita qd' heas corpora Term time  
 eoz coram nobis apud Westm die \* then make  
 pr' post the *Teste*  
 spond' N. B. de plito tinsgi Accia sepal thereof the  
 bill ipius N. plus p'fat C. & E. pro decem first day o  
 Libris de debo secundum Cons Cut nro the Term:  
 But if it be  
 made out  
 in the  
 precedent

Vacation then make the *Teste* thereof the last day of the Term. \* See before concerning Return.

coram



K's Bench. *cozam nobis exhibend Et heas ibi tunc*  
 *hoc bze C. J. Holt Mil apud Westm*  
*die Anno rñd nrd.*

Holt and Coleman.

And Indorse the Name of the Clerk that  
 Sues it out, and the day of the Month.

The **Pluries Capias** is the same with  
 the **Alias**, only saying, *precipimus tibi*  
*sicut pluries tibi preceperimus, &c.*

You must make a Note for the Office  
 as for the **Latitat**,.

b m      b m

Sons ff. *Als p A.B. & C. D. & E. f.*  
*i die      pr' post*

Pleadwell.

\* This En-  
 try is not  
 used of late.

The **Alias** and **Pluries Capias** must be  
 signed at the *King's Bench* Office (for which  
 you pay no fee or Duty) and must be en-  
 tred into the Book, if in the \* Vacation;  
 but you must either find out the **Latitat**  
 upon the Roll in the Office, or else bring  
 down your Master's Book, to satisfy the Signer  
 that a **Latitat** hath been sued out before, or  
 else he will not sign the **Alias** or **Pluries Cap.**

After your **Alias** or **Pluries** signed,  
 you get them Sealed, as above, and  
 pay 7d for each.

Note, You may continue your **Pluries**  
**Capias** from Term to Term, until the Def.  
 be Arrested; but observe, That if the **La-**  
**titat** was not renewed within five Terms  
 after

after it was taken out, then you cannot re-<sup>K's Bench.</sup>  
new it by **Alias** or **Pluries**; but must sue  
out a new **Latitat**.

Note, When there are 3 or 4 Defendants in  
one Writ, and some of them Special and  
some not as if your Directions be for a Bill or  
**Latitat** for A. B. against C. D. p 10 l de Debo  
E. F. in Trespass G. H. p 17 l 10 s. 8 d.  
sup assumption J. K. p conversion & aspor-  
tation Bonorum & Catallorum ad damp-  
num 100 l.

Then after the words de placito trāgr  
you say **Ne etiam** Bill ipius A. B. **ſus**  
pſae C. D. p decem Libris de Debo ac ver-  
sus pſae G. H. p septendecim Libris decem  
solidis & octo Denari sup assumptionem ac  
ſus pſae J. K. p conversionem & asportationem  
Bonorum & Catallorum ipsius A. ad damp-  
num Centum Librarum ſcdm Cons Cui-  
us coram nobis exhibens, (&c.)

If two of the Sums be alike in Debt  
or on promise, as A. B. against C.  
D. and E. F. p 40 l. Debt, and G.  
H. in Trespass.

Then say **ac etiam** ſepat \* **Bille** ipius A.  
B. **verſus** pſae C. D. & E. F. p quadra-  
gine Libris de Debo ſcdm Cons, as be-  
fore, and so if it be sup assumptionem or  
the like.

\* Yet usually the words in this Case are (tho'  
perhaps not so properly) **Ne etiam** Bill  
ipius A. **ſus** pſae C. D. & E. F. p  
40 l de Debo (or sup **Ass**) **ſepatim**  
**ſecundum**, &c.

Note, If any of your Defendants live with-  
in

K's Bench.

Mandavi  
Ballivo.

in a Liberty where the Sheriff may not enter, you must get the Sheriff to direct his Warrant on your Writ to the Bayliff of such Liberty, who may execute it; but if the Bailiff of such Liberty do not execute it, then you must at the Return of your Writ, get the Sheriffs to return a *Mandavi Ballivo* thereon, and thereupon you may make out a Writ called a *Non Omittas* directed to the Sheriff, and upon that Writ the Sheriff's Officers may upon the Sheriff's Warrant made out thereon, enter and execute the Warrant within such Liberty. The Form whereof follows.

The form of the *Non Omittas*.

**W**illmus tercius, (Et). *Vic Soudalem Precipimus tibi Quod non omittas propter aliquam Libertatem in Com tuo Quin Capias C.D. & E.F. Et as inan Alias Capias.*

And Note, the usual Practice in such case is, if the Deft. dwells in the Country, to send down a *Non Omittas* with the *Latitat* for dispatch.

When the Sheriff Arrests, the Defendant, he by his officers takes Bond according to the nature of the Action, either for the Appearance or for special Bail.

But if the Action require only an Appearance then an Attorney may back the Sheriff's Warrant for the Defendant, by Indorsing that he will cause Common Bail to be filed for the Defendant at the Return of the Writ.

The

The form of a Common Bail-piece you will find after, which according to the late Statute is to be filed within eight days, upon penalty of five pounds, from the Defendant to the Plaintiff. K's Bench

But, If the Defendant doth not appear, That is, doth not Find Bail either Special or Common as the Writ requires, (for now Attorneys ought to take great care to File their Bail, by reason of the penalties of the late Act;) then the Plaintiff's Attorney must call on the Sheriff for a Return of the Writ, That is, an answer Indorsed on the back of the Writ, whether the Defendant be Arrested or not: If the Sheriff make delay, as it often happens, when the Bail Bond is not brought into his Office, or when the Officer hath taken insolvent or insufficient Bail, or hath let the Defendant escape, then the Plaintiff's Attorney must give a Rule with the Clerk of the Rules, for the Sheriff of the County to Return the Writ, and take a Copy of the Rule from the Clerk of the Rules, and serve the Sheriff; and if the Sheriff doth not Return the Writ at the time mentioned in the Rule, the Plaintiff's Attorney may move at the Side-bar to have the Sheriff amerced, shewing the Rule wherewith he was served, and the Clerk of the Rules who always attends there will draw up that Rule made at the Side-bar, and then you may estreat the Amerciaments in the Crown Office, which costs 2 s. a piece; but the usual course is to shew the Sheriff the Rule, and tell him you will estreat the Amerciaments, if he doth not Return the Writ. If he doth  
still

**K's Bench.** still delay you, you may Summon him before a Judge to shew cause, or at last move the Court against him.

When you have a *Cepi Corpus* returned, if there be no Appearance or Bail, you must take an other Rule from the Clerk of the Rules to the Sheriff, to bring in the Defendant's Body on Pain of 40 s. and serve the Sheriff as before: If the Defendant doth not yet put in Bail, you may have a *Habeas Corpus* on the *Cepi* (which see after) or you may proceed by Amerciaments as before, and so you may if the Sheriff do not Return the *Habeas Corpus*: But generally the Sheriff having taken good Bail (upon a Rule given on the *Cepi* when the Rule is out) will assign you the Bail Bond, and many times upon request without a Rule, and then you may Arrest the Defendant and the Bail at the Suit of the Sheriff on that Bond. But you must not put an *at etiam Bill* in the Writ, tho' the penalty of the Sheriff's Bond be never so great, for there is no Bail required at the Sheriff's Suit: You must also observe, That if the same Sheriff be still in his Office, your Writ must be directed to the Coroners of the County, and they must grant you a Warrant on the Writ, for which they will take 2 s. 4 d. a Name; and so ought your *Venire fac* to be to the Coroners: But if a new Sheriff be sworn, then you may make your Writs to the New Sheriff and proceed as in other Cases.

If you are for the Defendant, then the best Course to stay proceedings on the Bail,



is to put in good Bail if the Writ requires it, and give notice that you will move the Court, that the Secondary may tax the Costs on the Bail Bond, and alledge that you are ready to receive a Declaration in the Original Action, and to plead and try it that Term, and not to delay the Plaintiff. Upon such notice, and a motion to the like purpose, the Court will make a Rule; draw up that Rule, and carry it to the Secondary, and he will appoint a day when both Attorneys shall attend him; and the Plaintiff's Attorney being served with the Rule brings in the Bill of Costs, which the Secondary taxes, and the Defendant must forthwith pay and receive a Declaration.

Many times the Attorneys agree these things amongst themselves, without troubling the Court.

If the Plaintiff doth except against the Bail, you must desire the Judge's Clerk, before whom the Bail was taken, to bring up the Bail-piece to Court, for which you pay him 2 s. 6 d. and then Justifie the Bail in Court.

Sometimes a Catching Practiser will bring the Defendant in Person into Court, and then he appears in Person, and so it is mentioned on the Bail-piece; and therefore it is fit, when you have Notice of Bail to be given in Court, that you do attend. For if the Defendant doth appear in Person, the Secondary who takes the Bail, will give you Notice if you be present; and you must Declare within Three days, or else may be *Non Pros'd.*

*Habeas*

*Habeas Corpus upon a Cepi.*

The Form of the *Habeas Corpus* runs thus:  
**W**ill'us tercius, &c. Dic N. saltem p̄ci-  
 pinus tibi qd' corpus A. B. in  
 p̄sona n̄a sub custod' tua detene p̄out tu  
 ipse p̄ retoz̄n tuū in Cui n̄a coram nob  
 alias inde miss. teipsum oñasti habeas  
 coram nobis apud Westm̄ die——(Et.)  
 ad respond' C. D. de p̄lito t̄lgi accedam  
 Bill, ipsius C. & us p̄fac A. p̄ Centum li-  
 bzis de debo scd'm cons Cui n̄e coram nob  
 exhibend' Et heas ibi tunc hoc bzebe  
 Teste J. Holt Mil' apud Westm̄ 28 Die  
 Novem̄ Anno regni nostri undecimo.

Sometimes the Sheriff will retorn *languidus* in  
*p̄sona*, whereupon you may have a due  
*licet languidus*.

The form of the *Licet languidus*.

**W**ill'us tercius, &c. Dic N. saltem p̄ci-  
 pinus tibi qd' in p̄p̄' p̄sona tua  
 accedas apud Westm̄——die Mercurij  
 p̄r' post tres septimanas scd' Michs ducens  
 tecum A. B. p̄ te capr' & in p̄sona n̄a sub  
 custod' tua licet languid' detene put p̄ re-  
 toz̄n tuū in Cui nostra coram nob alias  
 mand' ad respond' C. D. (as before) Et  
 heas ibi tunc hoc bzebe (Et.)

Note, At the return of all or any of these  
 you may Amerce the Sheriff, as before  
 observed.

Now if you be concerned for the Defen-  
 dent

dant, and he be sued upon the Sheriff's Bond \*, K's Bench.  
 and if the Plaintiff's Attorney (to whose Client the Sheriff's Bond is commonly assigned by the Sheriff) will not otherwise agree, <sup>\* For not appearing.</sup>  
 You may move the Court, That you are content to Appear) as of the same Term the first Writ was Returnable) and to accept of a Declaration, and not to delay the Plaintiff in his Suit. The Court upon such Motion will usually order the Suit upon the Sheriff's Bond to stay upon payment of Costs taxed by the Secondary. And if the Amerciaments against the Sheriff be Estreated, then upon the same Offer, and also to take off those Amerciaments, the Court will make the like Order.

*Special Bail.*

*In what Cases Special Bail is required.*

**N**Ote, In the Court of *King's-Bench*, if the Defendant be indebted to the Plaintiff by Bill, Bond or otherwise, to the value of 10 l. or upwards, you may force him to put in good Bail.

But in Case, for Words, Ejectment and Trespas, Bail is not insisted on: Except in some Special Cases, and if the Court so Order.

Neither is good Bail required against Heirs, Executors or Administrators in any Action brought against them, unless in such Case where they have wasted the Goods of the Testator,

E

And

K's Bench.

And by the Rules of this Court, Special Bail is required in all Causes of Removal, be it by *Habeas Corpus*, Writ of *Priviledge*, *Certiorari*, or the like: Except where the Defendant is sued as Executor or Administrator; for then he is not to give any Special Bail upon the Removal; which note.

And if Bail be put in upon a *Habeas Corpus* Returnable *immediatè*, if it be in *Hilary* or *Trinity* Term, and the Declaration be delivered eight Days before the end of the Term, then the Defendant must plead to Enter.

But if it be in *Michaelmas* Term, and the Declaration be delivered before *Craftinum Animarum*, or in *Easter* Term before *Mensem Paschæ*, then the Defendant must plead to Try the same Term.

## Bail.

*Of putting in Bail, either Common or Special.*

**I**F the Defendants be taken on any of the aforesaid Writs, they must appear at the Return; and the manner of Appearance in the *King's Bench* is by Bail, which is either Common or Special, as the Case Requires; and it is to be written on Parchment, and filed in the Office, if Common; and before a Judge, if Special.

The Bail-piece is usually cut out in shape and proportion as follows.

Note, By the Act of 5 & 6. *W. & M.* for Stamping of Paper and Parchment, 'tis Enacted

## Of Bail.

51

And, That every piece of Parchment, &c. on which are ingrossed or written any Common Bail, to be filed in any Court, and for any Appearance that shall be made upon such Bail, is charged 6d. and by a late Act 'tis made 1 s. K's Bench.

Which Appearance or Common Bail the Defendant shall cause to be entred or filed within 8 days after the Return of the Process on which the Defendant was arrested, on Penalty of 5 l. to be paid to the Plaintiff; for which the Court shall immediately award Judgment, and the Plaintiff may take out Execution. The Stamp of a Special Bail-piece is one shilling.

---



A Common Bail-piece upon *Cepi Corpus*, or  
Appearance,

Widd'r A. B. de Paroch Sed Ele-  
mentis Dacoꝝ in Com  
pd' Gen

Traditi in Ballium sup Cep  
Corp

Johi Doe de Lond' Yeoman.

&

Rico Roe de ead' Yeoman.

Pleadwell }  
Attoꝝd }

Ad lect C.D.

Note,  
Snap dou-  
ble 6 d.

Note, these Writs, Notes and Bail-pieces  
must be in Court-hand.

The

## Of Bail Special.

The Special Bail-piece before a Judge is made thus, upon a *Cepi Corpus*.

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K's Bench.

Somls. H. A. B. de C. in Com pd'  
Heom

Traditi in ballium sup  
Cepi Corp D. C. de  
ff. &c. [naming the  
Persons that are Bail,  
their Additions and  
place of abode.

Pleadwell }  
Attorn }  
}

Ad sectam  
G. H.

Nota double 12 d Stamp.

Thus

E 3

K's Bench. Thus upon a *Habeas Corpus* before a Judge.

Somerss n. A. B. de C. in Com pd  
Heom

Traditi in ballum sup  
Heas Corp D. C. de  
. Gen &  
f. G. de. . . . .  
Heom

Pleadwell }  
Atty: }  
}

Ad lectam Quer  
in queret.

Nota,  
Scanp. 12d

Writing ad lectam Quer' & Queret instea  
of ad lectam S. p.

Bail

# Of Bail Special.

55

*Bail before Commissioners.*

**N**Ote it is Enacted *Stat. 4 W. & M.* That Bail may be taken in the County before a Special Commissioner, for that purpose Authorized by the Judges of *The Kings-Bench Common-Pleas* and Barons of the *Exchequer*, respectively.

In the taking and filing whereof it is to be observed,

First, in the *King's-Bench*, That there are Orders put forth by the Judges for that purpose, which are as followeth:

*Orders to be observed by Commissioners to be Impowered by Act of Parliament, for taking Special Bail in the Country, upon Actions and Suits depending, or to be depending, in Their Majesties Court of Kings-Bench.*

*Orders for Bail before Commifioners.*

**F**irst, it is Ordered, that the Bail-piece shall be fairly Drawn and Ingrossed in Parchment, in the Form following, *viz.*

*Widdr N. Johannes Doe*  
*de Illingt in Com pd'*  
*N. B. Attorn* } *Gen Creditur in*  
*pro Def.* } *Bail super Capi Corp'*  
*Johanni Denny de Hackney*  
*in Com pd' Gen*  
*Rich Fen de Highgate in*  
*Com pd' Gen*

*Cape & Cognie . .*

*die . . 1696. coram*

*N. B. und Com-*  
*missionari, &c.*

*ad sextam*

*Richardi Doe.*

*E 4*

*And*

(See more  
 after p. 58,  
 59 60.)

**K's Bench.** And in taking of the Recognizance these words must be used, (*viz.*)

**Words to be used.** You (Calling the Bail by their Names) do jointly and severally undertake, that if the Defendant [naming his Name] shall be Condemned in this Action at the Suit of the Plaintiff [naming his Name], he shall satisfy the Costs and Condemnation, or render himself into the Custody of the Marshal of the Marshalsea of the Court of King's-Bench, or you will pay the Cost and Condemnation for him.

And if any Bail be given upon any Action or Actions removed out of any Inferiour Court by Writ of Habeas Corpus, and Returnable in the Court of King's Bench, then instead of writing *super Cerpi corpus*, as before, you must write *super h<sup>o</sup> de Hab corp*; and instead of writing the Plaintiff's Name (as aforesaid) you must write, *ad se<sup>o</sup> am Quer in Querel*; and the Cognizors must undertake that, if the Defendant be Condemned at the Suit of the Plaintiff or Plaintiffs in the Plaint, that he shall satisfy the Costs and Condemnation, or render his Body, &c. as aforesaid.

**Affidavit to be made.** Secondly, It is Ordered, that the Affidavit for the due taking of every such Bail shall be made either before some Judge of the King's-Bench, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, It is Ordered, That all Bails taken by any Commissioner within the distance of 40 Miles from the Cities of London and Westminster,



## before Commissioners.

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*minster*, shall be transmitted to the Lord <sup>K's Bench.</sup> Chief Justice of the Court of *Kings-Bench*, or to one of the Justices of the said Court, within 8 days after the taking thereof; and all Bails taken by any Commissioner above the distance of 40 Miles from the said Cities of *London* and *Westminster*, shall be Transmitted within 15 days after the taking thereof, unless all the said Justices shall be in their Circuits, and, then as soon as any one of them shall be Return'd to his Chamber in one of the *Serjts Inn*. <sup>Bails to be Transmitted.</sup>

Fourthly, also every Commissioner is to have a Book kept purposely for Entering the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece and the Time of the taking thereof, and of the Name of him by whom such Bail shall be Transmitted; and also the Name of the Attorney for the Defendant. And,

Fifthly, It is further Ordered, That the Plaintiff's Attorney shall be at liberty to repair to the Commissioner's Book for the Names of the Bail, to the end that they may enquire of the sufficiency of them; and if they are found Insufficient, they may Except against them within 20 days after the said Bail is Transmitted, and Notice to the Plaintiff, or his Attorney, of the taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bails must Justifie themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court. \* <sup>G. Eyre.  
W. Dolbin.  
J. Holt.</sup>

But

K's Bench. But of these more particularly, as follows,  
 in three sorts.

The first Bail-piece upon *Cepi Corpis*.

Berk's ff. A. B. de R. in Com pd' Gen

Tradit' in ballium sup  
 Cepi Corp C. D. de  
 . . . in Com D.  
 Gen & C. f. de . . .  
 in Com . . . Gen.

Harbey }  
 Attorn }

Ad sectam  
 R. R.

Cape & cogn 12 die  
 Baij, Anno Dnd  
 1699. de bene esse  
 coram me J. S.  
 un Commissioner'.

The

The second Bail upon a *Habeas Corpus*, thus:

Beck's. N. A. B. de A. in Com p'd Gen.

Tradite' in ballium sup  
breui de Hab Corp  
C. D de . . . : . in  
Com . . Gen C. F.  
de . . in Com . : Gen  
Ad lectam  
Quer' in querel.

Harben }  
Attoznd }

Cape & cogd 12 die  
Maij, Anno Dnd  
1699. de bene esse  
coram me J. S.  
und Commissioner.

The

K's Bench.

The third sort is upon a *Certiorari*, thus :

Berk<sup>s</sup> ff. A. B. de R. in Comd p<sup>d</sup> Gen.

Tradit<sup>r</sup> in Ballibum sup  
h<sup>o</sup> de Certiorari, C.D.  
de . . . in Comd p<sup>d</sup>  
& C.F. de . . . in Com  
p<sup>d</sup> Gen.

Harbey  
Atto<sup>r</sup>id }

ad lectam  
Quer in Querel

Cape & cogit 12 die  
Maij, Anno Dnd  
1699. coram me  
J. S. ud Com-  
missionar.

These must be carried to Be filed at a Judges  
Chamber, with an Affidavit of the due  
taking; to be made by one that was present.  
The form whereof follows.

In

*In Banco Regis**Inter R. R. quer' & A.B. Def.*

**T**B. of D in the County of E. Gent maketh Oath, That the Recognizance of Bail or Bail-piece hereto annexed, was duly acknowledged by, (&c. naming the Bail) before J.S. Esq; the Commissioner who took the same in this Deponent's presence the 12 th of May last past.

*Jurat' 5 Junii*  
1699. *Coram* }

*T. B.*

This Affidavit may be Sworn before the Commissioner, and sent up; or if the Party be above at Term, then before a Judge of that Court.

And observe further, That if one be brought into this Court by *Habeas Corpus* and doth put in Bail here, the Bail is liable to all Actions which the Plaintiff (at whose Suit he is brought in) shall bring: wherein he shall declare against the Defendant at any time within 2 Terms next following, but not afterwards, and if it be upon a *Capi Corpus*; then he must declare the same Term Bail is put in, otherwise the Bail are not liable.

Alfo



**K's Bench.** Also, if Bail be put in either Common or Special at another Man's Suit, a Stranger may upon this Bail put in a Declaration; but then it shall be but Common Bail to him, and also he must Declare of the same Term (sitting the Court) in which the Bail was put in, (which is not used in the Common-Pleas;) Yet the Party at whose Suit the Defendant was arrested may Declare the 2d Term, after the Defendant's appearance upon the Bail; but in such Case the Bail shall not be liable.

Appea-  
rance.  
in *propria*  
*persona*,

And if the Defendant appear in *propria persona*, the Plaintiff ought to Declare within 3 days, or else the Defendant may have Costs by the Statute of 8 *Eliz. cap. 2.*

Note, That in case you cannot find the Attorney to deliver him the Declaration the last day of the Term, *Sedente Curia*, It is convenient, that you go down to *Westminster* and get the Secondary to mark your Declaration, that it was tendred sitting the Court, &c. whereby the Attorney will be obliged to receive it afterwards.

See for the Rules of delivering Declarations, and declaring against Prisoners, at the end of the Declarations.

Next, we will see how to make up Issues, because it does sooner happen to a Young Clerk than other Business.

For

# Of Issues.

## Memorandum and Issues.

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K's Bench.

See Decla-  
rations to-  
wards the  
end of  
Kings-  
Bench.

For We will suppose that Your young Clerk shall be little employed in drawing Declarations, except upon Bond or in Ejectment, and the like, of which there are some Presidents after in this Treatise.

But he may have much to do in making up Issues, Ingrossing Records, and the like, and therefore we will hasten to them.

### How to make up an Issue.

**S**UPPOSE you have an Issue to make up in *Hilary* Term, from a Declaration of *Michaëlas* [or some other preceding] Term — You write in Court-hand at the top of your first sheet of Paper thus, according to the Term.

De Termino Scd Hilarij  
Anno .... rmd Dnd Willi  
tertij nunc Regis Angl' ,  
Ec. octavo.

Holt and Coleman.

Sends ff. **M**emorandum qđ alias scit Memorandum of a  
Termin Scd Michis dum of a  
[Scd Trin Palche, &c. as the Declaration is nother  
of] ult pte coram Dno Rege apud Westm Term.  
berd A.B. (naming the Plaintiff in the Decla-  
ration) p C.D. (naming Plaintiff's Attorney)  
Attorn sud, Et protulit hic in Cur dice  
Dnd Regis tunc ibm quendam billam  
suam verlus E. F. (naming the Defendant)  
in

**K's Bench.** in custodi **Mar**, &c. de plito \* **Debi**  
 [Transgr Transgr sup Casum, Conven-  
 tion frace, &c. as the Case is] Et sunt  
 pleg' de prosequend scilicet **Johes Doe &**  
**Ricus Roe**, que quidm **Villa** sequit in  
 hec verba ff. **Soms ff. N. B.** querit de  
**E. f.** in custodi **Mar Marele Dnd Regis**  
 coram ipo Rege existend de plito qd reddat  
 ei, &c. ( verbatim to the end of the Decla-  
 ration) Et inde producit **Scctam**, &c.

\* Note, When your Declaration is de plito  
 qd reddat, then say in your Memorand-  
 um or Issue de plito **Debi**; when pro  
 eo vidlt, then say de plito transgr sup  
 Casum; when in Trespass say de plito  
 transgr; when in Ejectment say de pla-  
 cito transgr & Ejecton firme; when in  
 Covenant say de plito Conventon  
 fract; when in Assault and Battery say,  
 de plito transgr & insule, &c.

Then beginning a new line after the end  
 of your Declaration you must enter your  
 Imparlance thus.

Et modo ad hunc diem scilt diem  
 martis pr, post Octab **Sci Hilarij** [the  
 first day of the Term the Issue is entred]  
 isto eod' **Termino** usq quem diem pd' **E. f.**  
 [the Defendant] huit licentiam ad **Villam**  
 pd' interloquend' & tunc ad respondend', &c.  
 coram **Dno Rege** apud **Westm** ven tm  
 pd' **N. B.** p **Attorn** suu pd' qm pd' **E.**  
**f. p G. H.** [the Defendant's Attorney] **At-**  
**toru** suu et idem **E. f.** defendit vim &  
 injur quando &c. Et dicit quod ipe non de-  
 bet pfac **N. B.** pd' decem **Libras** [the sum  
 menti-

*Nil Debet  
 per patri-  
 am.*

mentioned in the Declaration ] nec aliquem K's Bench  
 inde denari modo & forma prout idem A.  
 B. superius verlus eum querit Et de hoc  
 potest se super priam Et per A. B. filie, &c.  
 Non venit inde Iuri coram Domino Rege apud  
 Westm die lune proximo post Octab Pur bte  
 Marie Virginis [The last day of the same  
 Term the Issue is made \* up] Et qui nec, &c. \* But if in  
 Ad Recogn. &c. Quia tamen, &c. Idem Dies London or  
Middlesex  
 Dat est partibus per idem, &c. then the  
day of Sit-  
tings and  
Tryal.

Note, The Issuable Terms are called *Hil-  
lary* and *Trinity*, because of joyning Is-  
sues in Actions to be tried at the As-  
sises. Tryal.

Note, if the Defendant pleads not guilty Non. Cul.  
 in Trespass, then after the words (defend  
 vim & injuri quando &c.) write Et dic quod  
 ipse non est inde Culpabilis Et de hoc potest  
 se super priam &c. as above. in Trespass.

Et dic quod ipse in nullo est Cui de promissis  
 superius ei impoite prout per A. superius  
 plus eid querit Et de hoc potest se super  
 priam, &c. (as before.) In Case.

If the Defendant pleads non Assumpsit,  
 then after the words quando, &c. Et dic quod  
 ipse non Assumpsit super se modo & forma  
 prout idem A. B. superius verlus eum  
 querit Et de hoc potest se super priam, &c.  
 as above. Non Assumpsit.

Quando, &c. Et dicit quod ipse de debito per  
 virtute scribe obl per onari non debet  
 quia dic quod scribe Obl per Non  
 est factum suum Et de hoc potest se  
 super priam Et per A. filie Non, (&c. ut  
 (in al

F

Thus

K's Bench.

See more  
of Issues  
after the  
Declara-  
tions.

Thus is your Issue made up with a *Memorandum* when the Declaration is of another Term.

But many times the Issue is joyned the same Term the Declaration is of, and then you must enter it thus.

Memoran-  
dam of the  
same Term.

*Somds ff.* **M**emorandum qđ die Lune  
pr' post octab Sed Hil-  
larij [The first day of that Term the Decla-  
ration is of] *Isto eod Termino coram Dño*  
*Rege apud Westm ven* (the Plaintiff) p  
*A. B. Attorñ suū Et protulit hic in Cur*  
*dict Dñi Regis tunc ibm quandam billam*  
*suam versus* (the Defendant) *in Custod*  
*Marr, &c. de plito, (&c.)* as in a Me moran-  
dum for another Term,

This is the usual way, but it seems more  
proper to say after *Attorñ suū Et*  
*profert hic in Cur dice Dñi Regis*  
*nunc hic quandam billam suam,*  
(*&c.*)

Note, If the Declaration be above four  
Terms standing, then you say—*Memo-*  
*rand qđ al scilt Termino (&c.) Anno Regni*  
*Dñi Rē nunc* (naming the T<sup>e</sup>rm and Year)  
*coram, &c.*

Note, The Memorandum the same Term  
with the Declaration hath no Imparlance,  
but after the Declaration you must enter  
the Plea thus, (beginning a new Line) *Et*  
*pđsus* (the Defendant) p *A. B. Attorñ*  
*suū ven* & defend' vim et injur quando, &c.  
*Et dicit qđ ipē non assumpsit*—and so  
on as it is in another which hath no Impar-  
lance. You

Also.



You should enter your Issue before you Seal your Record, however before the next Term: (If your Tryal be after the Term or at the Assizes, it is entred upon a Roll out of the Office,) vide Instructions to enter up Judgment.

Having made up your Issue, the next thing is to ingross it as a Record for a Tryal, which is to be done in a Press or Presses of Parchment given out from the **Prisiarius** Office for that purpose.

Note, You must write but on one side of the Press, and if one Press will not serve, you must take another, beginning near the top, only leaving a bit to sew it to the other.

Rule your Parchment near the Top, and make a Margen of about three parts of an inch, and then write on the first, second or third upper lines in great Court Hand thus,

Placita.

**Plita coram Dño Rege apud Westm de  
Termino Scē Trinitatis Anno Regni  
Dñi Milii tertij nunc Regis Angl, &c.  
undecimor.**

Son's N. **M**emozandum qd' als scilt  
Termino Pasch ule pzetie  
coram Dño Rege apud Westm veni A. B p  
C. D. Attorn suu Et ptulit hic in Cur dice  
dñi Regis tunc ibm quanda Billam suam  
versus E. f. ———— and so on ———— to  
the end of your Issue verbatim ————  
and after ———— that ————  
leaving ———— about half an Inch  
distance

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distance——— you must write———  
 another Placita——— in great  
 Court Hand as a-  
 bove, viz.

**Plita coram Dño Rege apud Westm de  
 Termio S<sup>co</sup> Trinitatis Anno Regni  
 Dñi Willi tertij nunc Regis Angl, &c.  
 undecimo.**

[Note, That in the first *Placita* must be mentioned the Term, in which the Issue was joyned, and in the second *Placita* must be mentioned, the Term in which the Issue is to be tryed, when the proceedings so require.]

And then beginning a new Line, enter a *Jurata* as follows, in small Hand.

**S<sup>on</sup>s ff. Jur inr A. B. p Attoz<sup>u</sup> su<sup>u</sup>  
 Quer Et C. f. de Plito tran-  
 gr** [as the Action is] **pontie in resp<sup>u</sup> cor-**  
**ram Dño Rege apud Westm usq<sup>u</sup> Diem**  
 [the first day of the next Term] **pr<sup>o</sup> post—**  
**Nisi Justie Dñi Regis ad Assias in Com**  
**p<sup>o</sup> capiend<sup>u</sup> assign<sup>u</sup> p<sup>ri</sup>us die —** [the day  
 the Assizes are held] **apud —** [the place  
 where they are held] **p formam Statue, &c.**  
**ven p Defen<sup>u</sup> Jur, &c. Ideo Wit heat**  
**corpora, &c. Idem dies dar est partib<sup>u</sup> p<sup>o</sup>**  
**ibm, &c. Et sciendum est Qd<sup>o</sup> h<sup>u</sup>z dice Dñi**  
**Regis inde — die —** [the day of the  
 return of the Venire being the Teste of  
 the Distringas, and last day of that Term  
 the Record is made] **isto eod<sup>o</sup> Termio co-**  
**ram Dño Rege apud Westm deliberat<sup>u</sup> de**  
**Recordo**

Recordo Deputat Die Com pō in forma K's Bench.  
Juris exequend pīclo incumbend, &c.

Thus is your Record ready for Sealing,  
and you may cut off the remaining  
Parchment within an inch from  
the last Line. But Note, if your  
Cause is to be tried in London,  
your Jurata must be after this man-  
ner.

London ff. **J**ur in A. B. per Attorn suū *Jurata in*  
Quer Et C. D. de plito *London.*  
tūgi [as the Action is] ponitū in respēd  
tozam Dñi Rege apud Westm usq; diem  
[the very next day after the Sittings, if in  
Term, if after Term, then usq; the first day of  
the next Term, as] Mercurij prox post tres  
septimanas Sed Michis Nisi dilectus & Fi-  
del' Dñi Regis Johes Holt Mil' Capital'  
Justie Dñi Regis ad Plita in Cui ipsius  
Dñi Regis cozam iplo Rege tenend' as-  
signū [if in Term say] prius die . . . . . pr'  
post . . . . . [if after Term say] prius die  
[the day of sittings] Nobis decimo tercio  
die Junii apud Guild-hall London p  
formam Statue, &c. ven pro defectu Jur'  
&c. Ideo Die heat Corpora, &c. Idem  
Dies Dat est partib' pō ibidem, &c.  
Note, The Et sciendum est qd' hze, &c.  
it is not used for London as for the  
Country,

See after for some Special Juratas at the  
end of the Issues in the Kings Bench.

*Jurata, Venire, Distringas..*

Jurata in  
Midd'x.

**I**F your Action be in *Middlesex*, then say  
Nisi dilect & fidel' J. B. Mil', (Ec.) apud  
Westm' pd' in Com' Midd'x in magna Au-  
la Plitorum ibidem per formam Statute,  
Ec. (as before.)

In order to a Tryal to be had upon this Issue  
and Record, you must also make out a  
Venire facias, the Form whereof is thus.

Venire Fa-  
cias.

**W**Illius tercius Dei Gra Angl' Scoc  
Franc' & Hibnie Rex fidei Defens  
Ec. Die Soms Saltem Precipimus tibi  
qd' venire fac' coram nob' apud Westm'  
die Mercuri pr' post tres septimanas Secd  
Trinitatis [the last day of that Term Issue  
is made up] duodecim libos & legales hoies  
de Wilsd de L. the place where the Action  
is laid in the Declaration] in Com' tuo quo-  
rum quilibet heat decem  
Libr' Terr' Centozum vel  
reddit per annu ad minus  
p quos Rei veritas meli-  
us scire possit Et qui nec  
N. B. Quer nec C. D. ali-  
qua affiniare attingunt ad  
faciend' quandam Jurata in partes pd'  
de plito transgr' [as the Action is] Quia  
tam idem C. D. [the Defendant is qm pd'  
N. B. [the Plaintiff] in quos inde Con-  
tentio est posuer' se inde in Jur' ill' Et  
heas

If the Cause be in *London*  
then make a Writ de Vicin'  
Paroch' beate Marie de Ar-  
cubus in Warda de Cheap,  
&c. unless it be otherwise  
laid.

heas ibi noia Jur' & hoc hze Ceste J. <sup>R's Bench.</sup>  
 Holt Hil apud Westm<sup>9</sup> die Junij [first  
 day of the Term] Anno Rnd nrd Sep-  
 timo

*Holt & and Coleman.*

Note, That by the Rules of the Court, if  
 the Plaintiff will not try his Issue after it is  
 joyned in such time as he ought by the Course <sup>See after</sup>  
 of the Court. In such Case the Defendant <sup>pag. 74. 75.</sup>  
 may make out the *Venire* by Proviso, if he  
 will, that he may free himself if he can, of  
 the danger and trouble he may be subject to  
 by the depending of the Action against him,  
 and to recover his Costs for his unjust vexa-  
 tion. In which Case the *Venire* is to run  
 thus; after you come to *In Jur' ill'*, &c. say <sup>Proviso.</sup>  
*Proviso semper qd si duo brevia inde tibi*  
*venerint unum eozundem tantum retord*  
*& exequaris. Et heas, &c.*

And it is to be observed, That in Actions  
 laid in *London* or *Middlesex*, the Defendant  
 ought not to give the Plaintiff a Rule to en-  
 ter his Issues, or to try the Cause by Pro-  
 viso, the same Term Issue is joyned, un-  
 less the Plaintiff hath first given the Defen-  
 dant notice of a Tryal that Term, and  
 hath made default: And that if the Action  
 lie in the Country, the Defendant shall  
 give the Plaintiff a Rule to enter his Issue,  
 as of the same Term Issue is joyned.

Again if the Defendant give the Plaintiff  
 a Rule to enter his Issue, (the Action being  
 laid in *London* or *Middlesex*) the Plaintiff  
 must



K's Bench.

must bring his Record into the Office, within four days after notice of the Rule: And if the Action be laid in the Country, he must bring it in before the continuance Day of that Term, or in default thereof, a *Non-suit* may be signed and entred.

Upon the Writ of *Venire* being sealed the Sheriff will return a Jury in a Pannel annexed to the Writ.

Upon which Pannel you make out a *Distringas Juratoꝝ* after this manner.

*Distringas  
Jur'.*

**W**illius tercius Dei Gra Angl' Scoe Franc' & Hibnie Rex fidei Defens, &c. *Vic Soms saltem Precipimus tibi qd Distringas A. B. C. D. E. f, &c.* [naming all the Jurors with their Additions and places of abode, as they are set down in the Pannel] *Jur, sum in Cur' nra coram nobis int A. B. Quei & C. D. p omnes Terras & Catalla sua in balia tua ita qd' nec ipsi nec aliquis p ipos ad ea man appon donec aliud a nobis inde hue'ris pcepe Et qd' de exie eozundm Nobis respond' ita qd' heas coꝝpoꝝa eoz coram nobis apud Westm die lune pr' post tres septia' nas Sed Michis the first day of the next Term] \* *vel coram Justic nris ad Assas in Com tuo tenend' assign, si prius die . .**

\* If your  
Distr' be in  
London you

say *vel coram dilect. & fidel. nro. Jo. Holt Mil. Capital. Justic. nro. ad pl'ita in Cur' nra' coram nob' tenend. assign. si prius die, (&c.) apud Guildhall London, (&c.)* If the *Distringas* be in Middlesex, then you must say *coram dilect. & fidel. nro. J. Holt (&c.) apud Westm. pred' in Magna Aula plitorin, ibidem per form. Stat. (&c.)*

[the

# Distringas, Jur'.

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(the day the Affizes are held on] apud :  
[ the place where they are held] p formam  
Statuti in hunc modum Casu nuper editi & pro-  
visi veni ad faciend' quandam Juratam  
inter partes p'd' de placito transgi [as the  
Action is] Et ad audiend' Judicium suum de  
plur' defale Et heas ibi tunc hoc t're ,  
Teste J. Holt Mil apud Westm 28 die  
Junij, [ last day of the Term] Anno rno  
rno undecimo.

Holt & Coleman.

You must next Seal this *Distringas* , and  
get the Sheriff to return it, and if there  
be an occasion for a *Subpoena* for the  
Witnesses (as commonly there is you  
must make it as pag. 75.

Note, That by an Act of 7 & 8 Gulicimi  
tertij Regis, for the ease of Jurors, and  
better regulating of Juries , it is Enacted,

'That if the Plaintiff shall not proceed to  
Tryal of the Issue at the first Affizes , after  
the Teste of the Writ of *Habeas corpus*  
or *Distringas* with a *Piss prius* ; That  
'then, and in all such Cases (other than  
'where views by Jurors shall be directed)  
'the Plaintiff or Demandant whenever he  
'shall think fit to trie the said Issue at any  
'other Affizes, shall Sue forth and prosecute  
'a new Writ of *Venire facias* directed to *Venire de*  
*no vo.*  
'the Sheriff in this Form.

*Quod de novo Venire facias coram , (Et.*  
*duodecim libos & leges hoies de Vicin de*  
*(A) quoz quilibet heat decem libras ter-*  
*tent.*

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teneor<sup>2</sup> vel reddit<sup>2</sup> per annum ad minus  
per quos (Et.) Et qui nec, (Et.) after the  
'ancient manner, That is to say, the Writ is  
'to be in the same Form as the first, only  
'adding the words *De novo*.

'Which Writ being duly returned and  
filed, a Writ of *Habeas Corpus*, or *Dis-*  
'*stringas* with a *Nisi prius*, shall Issue  
'thereupon for the antient Fees, as in the  
, Case of a *Pluries Habeas Corpus* or  
'*Disstringas* with a *Nisi prius*; upon  
'which the Plaintiff or Demandant shall and  
'may proceed to Trial, as if no former  
'Writ of *Venire facias* had been prosecu-  
'ted or filed in that Cause, and so *toties*  
, *quoties* as the Case shall require.

Proviso

semper, &amp;c.

vid pag. 71.

'And if any Defendant or Tenant shall  
'be minded to bring the Issue to Tryal by  
'Proviso (when by course he may) he may  
'of the Issuable Term next preceding such  
'intended Tryal to be had at the next Af-  
'fizes, Sue out a new *Venire facias* to the  
'Sheriff, in Form aforesaid by Proviso, and  
'prosecute the same by Writ of *Habeas*  
'*Corpus* or *Disstringas* with a *Nisi prius*,  
'as tho' there had not been any former *Ve-*  
'*nire facias* sued out or returned in that  
'Cause, and so *toties quoties*, as the mat-  
'ter shall require.

This Act also provides, That Jurors to  
serve upon the Tales shall be Free-holders,  
or Copy-holders of the County, and return-  
ed upon some other Pannel to serve at the  
said Assizes and attending in Court, and  
may be challenged by Plaintiff or Defendant,

# Distringas Jur'.

75

Demandant or Tenant, as if they had been Impannelled upon a *Venire facias* awarded to try the Issue.

## A Subpæna for Witnesses.

**W** Illmus tercius Dei Gra Angl' *But four names in one subp.*  
 Scoe Franc & Hibnie Rex fidei  
 Defens, (Et.) A. B. C. D. E. F. & G. H.  
 [naming your Witness] saltem Precipimus  
 vobis & cuilibet vrm firmiter injungend  
 Ad omnis & singlis negotiis & Excus-  
 sationib quibuscunque cessand in prop'  
 person veris sitis & quilibet vrm sit co-  
 ram Justie nris ad as-  
 sias \* in Com Somis ca-  
 piend' assign die . . .  
 . . [the day the Assizes  
 are held] apud . . .  
 . . [the place where  
 they are held] ad testifi-  
 cand' ea oia & singla que  
 scriberitis vel aliquis vrm  
 scriberit in quadam A-  
 ctione in Cur nra co-  
 ram nobis jam pended  
 indeterminae ine A. B. Quer't C. D.  
 Det. de plito transgr [as the Action is]  
 & ad diem ill p Jur' Patrie triand' Et  
 hoc nullatenus omittatis nec aliquis  
 vrm omittat subpena cujuslibet vrm Cen-  
 tum Libraꝝ Teste J. Holt Mil apud  
 Westm 28 die Junij A. rno nro un-  
 decimo.

\* If in London, then coram dilect' J. H. Capitali Justic. as before apud Guild-hall London, &c. †

‡ If in Middelfex coram dilect' the Chief Justice as before apud Westm' in Magna. Aula placitorum ibidem, &c

Holt and Colman.  
 See

K's Bench.



See after for the Form of a *Subpæna* ad  
*Testifican*\* upon a Writ of Enquiry of  
Damages.

Upon this *Subpæna* there are Tickets to be  
filled up or made after this manner.

*Tickets, for Witnesses.*

Mr. *A. B.* . . . . .

\* For *Lond-*  
*don* or *Mid-*  
then before  
Sir *J.H.Kt.* † before  
&c. (*mutat.*  
*mutand.*)  
But if the  
Ticket be  
upon a *Spe-*  
*cialty* up-  
on a Writ  
of Enquiry  
of *Dama-*  
*ges*, then  
say,

\* By virtue  
(&c.)

† before the  
Sheriff of  
Somerset,  
on, &c.

|| at the  
Sign of  
(&c.)

\* in T. to  
testifie, &c.

† and then and there to be inquired of between (&c. as in the other.)

**BY** virtue of a Writ of *Subpæna* to you  
directed, and herewith shewed unto  
you, you are personally to be and appear  
† before his Majesties Justices of Assize on  
&c. . . . . next being the . . . day of . . .  
at . . . of the Clock in the . . . noon  
of the same day, † at the Court then to  
be holden at . . . \* in the County  
of . . . to testifie the Truth according  
your knowledge, in a certain Cause now  
depending † and then and there to be tryed  
between *A B.* Plaintiff and *C. D.* Defendant,  
in a Plea of . . . . . on the part  
of . . . . . and hereof you are  
not to fail, on pain of One hundred Pounds.  
Dated the . . . day of . . .  
in the Eleventh year of the Reign of our So-  
vereign Lord *William* the Third, by the  
Grace of God of *England, Scotland, France*  
and *Ireland*, King, Defender of the Faith, &c.  
*Annoque Domini 1699.*

of



Of Sealing Records.

**N**Ote, You must get your Record Sealed at the *Nisi prius* by the *Custos Brevium*, who (in truth) ought to make up your Record, and keeps Clerks for that purpose, and you are to pay him for it: But for dispatch the Clerk or Attorney makes them up himself.

You are also to give the Defendants Attorney sufficient Notice of Trial. Notice of Trial.

And Note, that there must be Eight days Notice given to the Defendant's Attorney of any Trial in *London* and *Middlesex*, unless the Defendant live above 40 Miles from *London*, and then 'tis 14 days.

But 8 days Notice of trial at *Affizes* its said is good, let the Defendant live where he will; but not upon an old Issue.

If a Cause have continued four Terms without Prosecution, before Issue joyned the Defendant is to have a Terms Notice to plead, &c. before Judgment can be entred by default; if after Issue joyned, a Terms Notice before Trial.

If Notice of Trial be given in *London*, or *Middlesex*, and the Cause be not entred in the Lord Chief Justice's Book two days before the day that it is to be tried, the Marshal will enter a *Ne recipiatur* at the Request of the Defendant, or his Attorney. And there is a Rule made, That the Cause shall be entred four days before Trial.

And if the Plaintiff give Notice to the Defendant

K's Bench.

Defendant, that he will trie his Cause on a certain day within Term, altho' it be not tried at the day appointed; yet he is not bound to give new Notice of Tryal, but may try it the next Sitting in the same Term, upon two days Notice: But if not tried the next Sitting, then Notice to be given as at first.

*Costs for not proceeding.*

**A**lso if the Plaintiff proceeds not to Trial after Notice, (and no Countermand) then the Defendant shall have Costs taxed by the Secondary, upon Affidavit of Attendance and Costs; which Affidavit may be in manner following, *viz.*

*In Banco Reges*

Jur A. B. Quer }  
 C. D. Def. } in plito tñsgr.

**R**G. maketh Oath, That he this Deponent, with the Defendant and Witnesses, Attended at the last Assizes held at New Sarum, for the County of Wilts, pursuant to a Notice of Trial formerly given by the Plaintiff's Attorney: And that then the Plaintiff did not proceed to Trial, neither did this Deponent receive or bear of any Countermand thereof.

Jur . . . }  
 die . . . } R. G.  
 coram

J. D.

Or,

Or, if a Countermend was given at the Affizes, say, K's Bench.

— Neither heard this Deponent of any Countermend thereof until Monday the 15 day of July last, at night, (&c.)

But Note, this is done upon a Motion in the King's-Bench ; but without Motion in the Common-Pleas.

Note at the Affizes, you get the Sheriff to Return your *Distringas* of the Jury , and then you deliver the Record to the Judges Marshal

The next thing is to draw the Breviats for the Counsel , wherein great Knowledge and Experience is required ; especially to know what Proof is requisite to be made , and sometimes what is Evidence , and what not ; (for which see the Book called *Trials per Pais*) and to set forth the Case Summarily, and yet perspicuously and fully ; and sometimes also what is supposed will be objected by the other side. But our Clerk will be no further concerned therein at first, than to write them fairly over : So that we shall proceed how to Enter up Judgment after Trial.

When

**W**Hen the Trial is over, and the Court Fees paid, if your Action be laid in *London* or *Middlesex*, the *Associat* will deliver you your Record with the *Disstringas*, and the *Pannel* or Names of the Jury thereunto annexed, upon the back of which Pannel he writes the Substance of the Verdict, and the Costs given by the Jury, which you must take care to fix to your Record, that it may not be lost; then (get it Stampd with a new double 2 s 6 d. Stamp, and scrape or rub the Back of the Record with a Pumice-Stone, that it may be fit to write on, and about two Fingers from the Top, with a Margent about three or four Fingers broad, begin your *Postea* longways, and not as you write your Record; The substance and meaning of which *Postea* in English is this, That afterwards the Plaintiff and Defendant came by their Attorneys before the Lord Chief Justice or Judge of the Assize, (as the Case is) and the Jury was Sworn, &c. and then sets forth what Verdict they found, and what Costs they gave.

The Form of this *Postea* followeth

*The*

The Form of a Postea by default, With  
Tales.

**P**ostea die & loco infracontene coram  
Johanne Holt Mil Capital Justic  
infrascripte Associat' sibi Johe Ince Gen  
(that is the Judges Associat, who delivers you  
the Record) p forma Statut, &c. Ven  
infrascripte A. B. (viz the Plaintiff)  
p Attornatum suum infracontene & infra-  
nominat C. D. (viz. the Defendant) licet  
solemniter exace non venit, sed defale  
fecit; Ideo Jur' infrascripte Capiatur  
Hus eum per defale & Jur' jure illius  
exace quidam eorum videle G. F. ven &  
in Jur' ill' Jurat' existunt (recite the  
Names of so many of the Jury of the Prin-  
cipal Pannel which is annexed to your *Di-  
stringas*, as you shall find there to have been  
Sworn; for against every mans Name that  
hath been Sworn there is writ *J. D. or Jur'*  
for *Jurat'*, and if twelve of the Jury so  
Returned do not appear to be Sworn; then  
the Council for the Plaintiff, before the  
Trial, prayeth the Judge to grant a *Tales  
de Circumstantibus*, that is; as many of  
other Persons then present as may fill up the  
Number; and they write upon the Pannel  
*Nomina Jur' de Robo appoit scdm for-  
mam Statuti*, (&c.) And then the Names  
of those *Tales* Men, and they are also  
Sworn and stand with the rest of the Jury;  
I say, if there be a *Tales* as it often happens;  
then after existunt you must say [ &  
G quia



**Bench.** quia resid' ejusdem Jur' non Comparuer' ideo alij de Circumstantibus p' Dic' Non-  
don (or *Widdr* as the Case is) ad hoc elci  
ad requiconem pdice A. B. (viz. the Plain-  
tiff) ac p' Mandae Capital Justie pdice  
de novo apponuntur quorum Nomina in  
Panello infrascripte affilantur scdm for-  
mam Statue in huiusmodi casu edit' & p'bia  
qui quidm' Jur' sic de novo appoit videlt  
f. G. &c.) [Here recite all the *Tales Men*]  
erace filie vener' qui ad veritatem de in-  
fracontene simul cum al' Jur' pdice prius  
Impannellat' & Jurae dicend' elci triae &  
jurae dicunt super Sacrum suum qd p'  
deus C. D. Assumpsit super se modo &  
forma put' pdictus A. B. (viz. the Plain-  
tiff) interius versus eum queritur & assi-  
dunt dampn' ipsius A. B. occone non per-  
formazonis p'mission' & assumpton' infra-  
scribe ultra mis' & custag' sua per ipsum  
circa sectam suam in hac parte appoit' ad  
bigine libi & p' mis' & custag' illi ad quin-  
quagine & tres solid' & quatuor denar'  
(the usual Costs given by the Jury) *No*  
(&c.)

This is the Form of a *Postea* in an Action  
on the Case upon Promise, wherein there is  
a *Tales* and a Verdict for the Plaintiff by  
Default, that is when the Defendant (after  
the Jury is returned, or ready to give in their  
Verdict) doth not appear, being called,  
knowing the Verdict, will certainly be a-  
gainst him.

There

There are several other Forms of *Postea's* K's Bench of which it is necessary to add some Precedents.

*The Form of a Postea for the Plaintiff, upon Non Assumpsit, with a Tales, where the Defendant appears and does not make Default.*

**P**ostea die (Et.) venit tñ infranodae A. B. quam infrascripte C. D. per artornae suos infracontene Et Jur' iure unde infra fit mentio exact quidam eorū videlt C. F. G. H. (Et.) veni & in Jur' illi iurac existunt Et quia resid Jur' ejusdem iurac non compuer' Id al de circumstancie p Die London infrascripte ad hoc elect ad requisicon pñ A. B. ac per Mandae Capie Justic pñce de novo apponuntur quorum notia Panello infrascripte affilantur scdm formam Statue in humod casu edic & pñs qui quidem Jur' sit de novo appoie videlt J. K. L. M. (Et.) exacte filie vener' qui ad veritac de infracontene simul cum al jur' pñce prius itupannellae dicend' electi trias & iurac die super Sacrum suum qñ pñct C. D. assumpsit super se modo & forma put pñce A. B. in eius verius eum queritur & assidum dñ ipsius A. B. octone non performacon pmission & assumpton infrascript ultra mis & custag' sua per ipm circa lect suam in hac parte appoie ad cent lib' & p mis & custag' illi ad 53 s. 4 d. Id, Et.

For the Defendant upon *Non Assumpsit* :

Postea die, (et.) die super Sacram suum  
quod p[ro]dice C. D. Non assumpsit super se mo-  
do & forma put p[ro]dict C. D. p[ro]litando inte-  
rius allegabit, &c.

For the Plaintiff upon *Non culp'* in Trover.

Postea die (Et.) die super Sacram suum  
quod p[ro]dice C. D. est Culpabilis de p[ro]missis  
infrascript modo & forma put p[ro]dice A. B.  
interius versus eum narrabit Et assi-  
dunt da ipsius A. B. octone infrascript  
ultra mis & custag' sua p[ro] ipsu[m] circa secta  
suam in hac parte appoit ad 100 l. Et p[ro]  
mis & custag' illi ad 53 s. 4 d. Ideo &c.

In Detinue for the Plaintiff.

Postea die, (Et.) die sup Sacram suum  
quod p[ro]dice C. D. detinet a p[ro]fat A. B. infra-  
script quatuor quarter' frumenti put p[ro]dict  
A. B. interius s[er]vus eum queritur Et  
ulter' Jur' die super Sacram suum quod  
eadem quatuor quart' frument' valent 4  
libr' & assidunt da ipsius A. B. octone de-  
tentonis p[ro]dict 4 quarter' frumenti ad 20  
solid' & p[ro] mis & custag' illi ad 53 s. 4 d.  
Ido, &c. [the Judgment in this is remarkable,  
therefore I add it here] Id' cons' est quod  
p[ro]dict A. B. recuperet s[er]vus p[ro]fat C. D. p[ro]dict  
4 quarter' frumenti vel p[ro]dict 4 libr' p[ro] va-  
lore eorundem ac da sua p[ro]dice, &c.

*Aliter*

Postea die (Et.) die super Sacrd suum  
qd pdict C. D. detinet a p̄lato A. B. infra-  
scripto argenteum poculo in Pari infra-  
scripto incius specificat modo & forma put  
pdict A. B. incius vsus eum Queritur  
& assidunt da ipsius A. B. orōne deten-  
tionis argentei poculi ill ultra mis &  
custag' sua p ipsum circa lect suam in hac  
parte appoit si idem A. B. libacoem ipsius  
argentei poculi here possit ad 10s. & p  
mis & custag' ill ad 53s 4d. Et si  
idem A. B. liberaōem epuldem argentei  
poculi habere non possit tunc Iur p̄d assi-  
dunt da ipsius A. B. p valore argent poculi  
pdict ultra mis & custag' sua pdict p ipos  
Juratores in forma p̄d assess. ad 5 l. (Et.)

For the Plaintiff in Debt upon Conditions  
performed.

Postea die (Et.) die sup Sacrd suum  
qd pdict C. D. non solvit p̄lat A. B. super  
infrascripte fest' die sed Johis Baptē qui  
fuit in Anno Dni 1699 infrascript in  
Conditōne infrascripte superius specifi-  
cat infrascript centum libr' quas ei ad  
vel sup eodm die solvisse debuit scdm for-  
mam & effect Conditō pdict modo & forma  
put pdict C. D. incius plitans allegabit  
Et assidunt da ipsius A. B. orōne ill ultra  
mis & custag' sua p ipm circa lect suam in  
hac parte appoit ad 4 denar' & p mis &  
custag' ill ad 53s. 4d. Jo, &c.

G 3

For

K's Bench.

~~~~~ For the Plaintiff upon *Solvit ad diem* pleaded to a penal Bill.

Postea die (Et.) die sup Sacrd suum qd pdict C. D. non solvit pstat A. B. inframentonat 100 l. super infrascripte 10 die tunc instanc Octob scdm formam & effect' bill Obl inframentonat modo & forma put pdice A. B. incrius versus eum queritur & assidunt da (Et.)

*Pro Quer. upon Non est factum.*

Postea die (Et.) die sup Sacrd suum qd infrascripte scriptu Obligatoriu p infrascript 100 libz' in Pari infrascripte incrius mentonat est factum pdice C. D. put pdict A. B. int'ius inde Plus eum queritur Et assidunt da ipius A. B. octone ill ultra mis & custag sua p ipu circa sex' suam in hac parte appoit ad 4 denar' Et p mis & custag' ill ad 53 s. 4 d. Jo (Et.)

*Pro Quer' upon per Dures pleaded.*

Postea die (Et.) die sup Sacrd suum qd infrascripte C. D. die & anno in Pari infrascriptat fuit sui juris ad largu extra quamlibet Prisonam & scriptu Oblig inframentonat ex mera & spontanea voluntate sua fec' sigillabit & ut serm suum eidem A. B. adtunc & ibid delibabit & non p vim & durie imprisonmente ill modo & forma put pdict C. D. intius plitand allegabit



gabit & assidunt dā ipsius A. B. occasione de- K's Bench  
 tentonis debet illius inframentonāt ultra  
 mis & custag' sua p ipm circa sect suam in  
 hac parte appoit ad 12 denar' & p mis &  
 custag' ill ad 53 s. 4d. Itō (&c.)

*Pro Quer. in an Assault and Battery upon  
 Non culp.*

Postea die (&c.) die sup Sacrd suum qd  
 pdict C. D. die anno & loco infraspacificat  
 in pdict A. B. insult fecit & ipm obavit  
 buldavit & malettractavit modo & forma  
 put idem A. B. intus versus eum nar-  
 ravit Et assidunt dā ipsius A. B. occasione  
 pmissozd infracentent ultra mis & custag'  
 sua p ipm circa sect suam in hac parte ap-  
 poie ad 10 libr' & p mis & custag' ill ad  
 53 s. 4d. Itō (&c.)

*Pro Quer. upon Son assault demesne.*

Postea die (&c.) die sup Sacrd suum  
 qd pdice C. D. die & anno supdice Vi & arm  
 pdict de injur' sua ppria & absq causa per  
 ipm C. D. superius allegat in ipm A. B.  
 apud R. pdict insult fecit & ipm verbavit  
 buldavit & malettractavit ita qd de vita  
 ejus despabatur contra pacem dnd Regis  
 nunc put pdict A. B. interius blus ipm  
 queritur & assid' dampnd ipsius A. B. oc-  
 zone tñgr' pdict ultra mis & custag' sua p  
 ipm circa secta sua in hac parte appoit ad  
 quadragint solidis & p mis & custag' ill ad  
 53 s. 4d. Itō (&c.)

K's Bench.

The Continuances of these *Postea's* upon the Roll are after this manner; after the joyning of the Issue ibm, &c. you add thus:

*Postea*  
continued  
on the  
Roll.

**P**ostea continuat inde p̄cessū int̄ partes p̄dice de plito p̄dict p̄ Jur' p̄oie inde int̄ eas in respect̄ coram dñō Rege apud Westm̄ usq; diem Lune pr' post Cras Jur' bte Marie extunc pr' sequend nisi dilecti & fideles dñi Regis J. H. Hil Capital Justic' dñd dñi Regis ad plita in Cur' ipsius dñi Regis coram ipō Rege tenend' assignat p̄ius die Sabti pr' post Cras Purific' bte Marie apud Guildhald' London p̄ formā Stat' &c. ven' p̄ defen Jur', &c. Ad quem diem coram dñō Rege apud Westm̄ ven' p̄dice A. B. p̄ p̄dict C. f. Attorn' suū p̄dict Et plac' Capital Justic' coram quo (&c.) mis̄ hic Record' suū coram eo hic in hec verba ff. Postea die & loco (&c.) (as before usq;) Jō (&c.)

See after for Enttring up the Judgment.

If at the Assizes, then say:

Postea continuat inde p̄cessū (&c.) as before usq;) Nisi Justic' dñd Regis ad Assis̄ in Com' p̄dice capiend' assignat die Martis 22 die Augusti apud L. in Com' p̄dict p̄ formam Statut', &c. ven' p̄ defen Jur', &c. Ad quem diem coram dñō Rege apud Westm̄ ven' p̄dict S. p̄ Attorn' suū p̄dict

pdict Et p̄fat Justit dnd Regis ad Al. K's Bench.  
 has coram quibz. &c. mis hic Record' sud  
 coram eis hic in hec verba n. Postea die &  
 loco infrancontent (&c.) Vid. Affizes infr. 92.

*Pro Quer. in Ejectment.*

Postea scit die & loco infrancontent co-  
 ram Johe Holt Mil Capital Justic nostro  
 infranscripe associat sibi Johe Ince Gen  
 p formam Statue, &c. venit tam infran-  
 minat A. B. qm infrascript C. D. p Attoznd  
 suos infrancontent & Jur' jur' unde infra  
 fit mento exact silit ved qui ad veritatem  
 de infrancontent dicend' elci triat & jurat  
 dicunt sup Sacrd sud qd pdict C. D. est  
 Culpabilis de Cnsg' & Ejectone firme in-  
 franscripe modo & forma put pdict A. B.  
 intius versus eum queritur & assidunt  
 dampn' ipsius A. B. ocone Cnsgressionis &  
 Ejectionis ill ultra mis & custag' sua p ipm  
 circa lecta suam in ea parte appoit ad 12 d.  
 & p mis & custag' ill ad 53 s. 4 d. Jo, &c.

*Pro Def. in Ejectment.*

Postea scit die (&c.) die super Sacrd  
 suum qd pd C. D. non est Culpabilis de  
 cnsgression' & Ejecton' firme infraspecificat  
 put idm C. D. interius placitando alle-  
 gabit. And the Judgment is— Jo cons  
 est qd pdict A. B. nil Capiat p Bill suam  
 pdict sed p falso clamore suo inde sit in mis  
 & pdict C. D. inde eat sine die.

*Pro*

K's Bench.

*Pro Quer. in Ejectment*, where the Jury find the Defendant guilty as to a Fourth part, and to the rest Not guilty.

Postea die & loco (Sc.) triat & jurat quoad infrascript Cūlgi & Ejectōm in quarta parte omnid & singul tētozū infrascript cum prin (eisdem tētis in quatuor partes inde dividend) dīc sup̄a Sacm̄ suū qd̄ p̄dict C. D. est inde Cūlpa modo & forma put p̄s A. B. interius verlus eum queritur ad assidunt dampn̄ ipsius A. B. octone Transgi & Ejectōis ill ultra mis & custaḡ sua p̄ ipm̄ (Sc.) appōit ad sex denat & p̄ mis & custaḡ ill ad 40s. & quoad aliquā Cūlgi & Ejectōm in tribus al partibus tētozū p̄dice cum prin̄ restis om̄ tētozū p̄dict in quatuor partes inde dividend̄ Qui p̄dice ulterius dic̄ super Sacm̄ suū p̄dice quod p̄dice C. D. non est inde Culpabit put idm̄ A. B. in eius inde plitando allegabit.

*Pro Defend. where the Plaintiff is Non-suited.*

Postea die & loco infracentent coram Johe Holt M̄l Capital Justic̄ dñi Regis infrascripe affociat̄ sibi . . . Gen̄ p̄ formam Statue (Sc.) Ven̄ tñd̄ infranominat̄ A. B. Quer̄ qm̄ infrascripe C. D. Def. p̄ Attozū suos infracōne & Jur̄ iure unde infra sit mento exace silit vener̄ qui ad

ad heritae de infracontent dicendi elci <sup>K's-Bench.</sup>  
 triae & iurac fuer Et a barra hic de Sedto  
 suo inde reddend ad colloquend recesser ac  
 inde ine se collocue & agreeat fuer ac ad  
 heredice ill reddend ad hanc hic reuener  
 super quo pdice A. B. licet solempnie exace  
 non uener nec est billa sua infranscripe  
 ergo pfar C. D. utius proß Jo (Ec.)

For the Plaintiff upon plenè Administravit.

Postea die (Ec.) die super Sacrm suu  
 quod pdice C. D. die impetrationis Wille  
 infraspecificae scite 23 die Januarij Anno,  
 (Ec.) huit diuersa bona & catall que fuer  
 infranscripe J. S. (viz the Testator or In-  
 testate) & diuersa bona & catalla que fuer  
 p J. S. tempore mortis sue in manibus  
 p C. D. administrand & assidunt dampnd  
 (ut supra.)

*Aliter in Case.*

Postea die (ec. die super Sacrm suum  
 p C. D. 23 die Jan Anno (Ec.) huit  
 diuersa bon & catalla que fuer pdice J. S.  
 tempore mortis sue in manibus suis admi-  
 nistrand ad valenc p 100 l. in Pari p  
 supius specificat modo & forma pnt pdice  
 A. B. superius allegabit & assidunt damp-  
 na ipsius A. B. octone non pformationis  
 pmission & assumpton p ultra mis &  
 custag sua p ipund circa sectam suam in  
 ea parte appoit ad . . . & p mis  
 & custag it ad 53 s. 4 d. The Judgment is,  
 Ideo



Ita cons est qd pd' A. B. recuperet  
 verlus pd' C. D. dampn sua pd' per Iur  
 pd' in forma pd' assessa necnon 5 l. & 10 s.  
 p mis & custag suis eidnd A. B. per Cui  
 Dnd Regis hic ex assensu suo de Incro  
 adjudicat que quidnd dampn in toto se  
 attingunt ad . . . l. de bonis & ca-  
 tallis que fuerunt pd' J. S. in manibus pd'  
 C. D. administrand leband si tantnd in ma-  
 nibus suis heat Et si tantum in manibus  
 suis non heat tunc pd' . . . l. p mis  
 & custag pdice de bonis & catallis ipsius  
 C. D. ppt Et pd' C. D. in mid (Ec.)

*Posteas of Records at the Assizes.*

Judges  
 Associat.

Default of  
 Def.

ales.

**P**ostea die & loco infracontene coram  
 G. C. Mit Capital Justic dnd Regis  
 de Banco & S. L. Arnd eidem G. C. & R. R.  
 Mit und Justiz dice dnd Regis ad Alias  
 in Com B. capiens Assign p formam  
 Statue (Ec.) hac vice associat plene pdice  
 R. R. non expectat Virtute hris dici dnd  
 Regis de si non omnes (Ec.) vend infra.  
 nominat S. P. p Altoznd suum infracon-  
 tene Et infrascripte R. O. gen licet so-  
 lemnit exact non vend sed defale fecit  
 Ideo Iur unde infra fit mentio capiatur  
 vers eid p defale Et Iur iur ill exact  
 quidam eorum videlt M. R. & C. M. vend  
 & in Iur' ill jurat existunt Et quia  
 resid Iur' ejusdem Iur non compuer  
 Ideo al de Circumstantibus p Dic Com  
 pd'

ad hoc electe ad requisitionem p[ro] S. P. ac per *K's Bench.*  
 Mandat[ur] Justic[is] p[ro] de novo apponuntur  
 quor[um] nomina Pannello infrascripte affi-  
 lantur secundum formam Stat[uti] in hujus-  
 modi casu nuper edic[ti] & p[ro]bi[us] Ac Jur[is] sic  
 de novo appoit videlt C. L. J. G. J. D.  
 (et.) exace filie ven[er] qui ad veritae de  
 infracontent simulcum ac Jur[is] p[ro]dice prius  
 impannellat & Jurat d[icit] super Sacram[ent] *Qd Def.*  
 suu[m] q[uo]d p[ro] R. G. assumpsit super se[m]modo & *Assumpsit.*  
 forma put[atur] p[ro] S. P. interius inde ver[um] cum  
 queritur Et assidunt dampna ipsius S. P.  
 octone infrascripte ultra mis[er] & custag[ia] sua  
 per ip[su]m circa lectam suam in hac parte  
 appoit ad quatuor lib[ras] Et p[er] mis[er] & custag[ia]  
 illi ad quadraginta solid[os]—Ideo, Et.

The Judgment hereupon is,

—No[n] cons[iderat]ur est q[uo]d p[ro]dict[us] S. P. recuperet *Judgment*  
 h[ab]ere p[ro]fat R. G. da[m] p[ro] per Jur[is] p[ro]dict[us] in *for the*  
 forma p[ro]dict[us] assess. necnon decem lib[ras] p[er] mis[er] *Roll.*  
 & custag[ia]. suis p[ro] eidem S. per Cur[iam] dicit[ur]  
 d[omi]ni Regis nunc hic ex assensu suo de inc[on]tra  
 adjudicat. Que quidem dampna in toto  
 se atting[unt] ad sexdecim lib[ras] Et p[ro] R. in  
 mia[m] Et. *Mia.*

See before for the Continuation of *Postea's*  
 upon the Roll, p. 88.

Upon

*Upon an Issue quoad tam triand' Exit' quam  
ad Inquirend' quæ dampna, &c.*

**P**ostea die & loco infracontent' (Et. as  
before usq.) Qui ad veritat' de infra-  
content' simulcum al Jur' p'dice prius im-  
pannellat' & jurat' diens elece trias & ju-  
rac quoad defect' reparacon' Cancell' infra-  
scribe interius assign' die super Sacrd'  
suum qd p'd Decan' & Capitul' dimiser'  
infranominat' G. H. Cancell' infrascripte  
modo & forma put p'd Decan' & Capitul'  
p' Parr' suam interius inde allegaver' Et  
assidunt dampn' ipsor' D. & C. oratione Con-  
venton' ill' frace in Erie infrascripte inter  
partes p'd interius junct' ultra mis' &  
custag' sua ipos' circa sextam suam in  
hac parte appoie ad 200 l. Et p' mis' &  
custag' ill' ad 40 s. Et quoad inquirend'  
que dampn' p'd D. & C. sustinuer' oratione  
fracton' conventon' infrascript' Unde par-  
tes p'd in Iudicio Cur' se posuer' si con-  
tingat Iudic' p' p'd D. & C. plus p'd C. G.  
inde reddi tunc i'dem Jur' die super Sa-  
crd' suu' Qd p'd D. & C. sustinuer' dampna  
oratione inde ad 100 l. Ideo cons' est qd p'd  
D. & C. recuperent vers' p'fac' C. G. dampna  
p'd p' Jur' p'd in forma p'd assess. necnon  
11 l. 6 s. 8 d. p' mis' & custag' p'd eisdem  
D. & C. p' Cur' dicti dñi Regis nunc hic  
ex assensu suo de incro' adjudicat' Que qui-  
dem dampna in toto se atting' ad 213 l.  
6 s. 8 d. Et p'd C. in mia' (Et.

Upon

## Upon a Special Verdict.

**P**ostea continuat inde Process, (Ec.)  
 Postea die & loco infracontente coram  
 C. C. Mil' uti Justic Dn' Regis de  
 Banco & C. B. servient ad Legem Ju-  
 stic ejusdem Dn' Regis ad assias in Com  
 D. capiend' Assign' per sornd' Stac, Ec.  
 vend' tam infra noia' G. D. quam infra  
 Scribe R. R. per Attozn' suos infracon-  
 tene Et Jur' Idre unde infra sit mento  
 exace similie vend' qui ad veritae de infra  
 contene dicend' elect' triac & jurat dicunt  
 super Sacm' suu' qd' ante tnsge & eje-  
 ction' in terris in Hare infra scribe men-  
 tonae quidam J. H. seie fuit de eisdem  
 teri in disico suo ut de feodo & sic inde  
 seie existend' condidit Testamentum & ule  
 voluntae sua in scriptis ine at de terris  
 infrascriptis per nonen cujusdam intae  
 in hec verba I give and bequeath un-  
 to *Ann Harrison*, Daughter of my Son in  
 Law *Thomas Harrison* my Intache in *Hope-*  
*field*, if my Son *Thomas Hyblin* happen to  
 have no Issue Male after the Decease of my  
 Wife, and if my Son *Thomas Hyblin* have  
 Issue Male, then my Will is, That the said  
*Ann* shall have 5 l. paid her only in lieu of  
 the said Intache. ) Et postea p' Jo. obiit  
 bens Eric p'fat' Tho. Hyblin qui fuit  
 Eric mascul' de corpore suo legitime pro-  
 creat' quendam Ric' Hyblin Et Jur' ul-  
 terius super Sacm' suu' p'ed' dicunt Qd'  
*Anna* Uxor p'fat' Jo. Hyblin eundem  
 Johem

K's Bench

Johem superbixit & postea obiit Et qđ  
 p̄fear' Quingue libze in ult' volunt' sua  
 sup̄adict' menconat' oblat' fuer' p̄fear' Anne  
 Harrison post mortē p̄fear' Eric Mascul  
 & per eandem Annam H. recusat' fuer'  
 Et ulterius Jur' p̄d' super Sacrm su-  
 um p̄d' dic' qđ quedam Anna & Eliz.  
 Dublin sunt sorores & heres p̄fear' Ric  
 Et qđ p̄fear' Ric' filius p̄d' Thom' obiit  
 absque Eric Mascul de Corpore suo liteme  
 procreat' Et quod p̄fear' Anna Harrison  
 intrabit in terras infrascripte & easdem  
 dimisit infranominat' G. A. quer' vir-  
 tute cuius p̄fear' G. in teri infra script'  
 intrabit & fuit inde possessionat' quousque  
 infra script' R. R. in & super possessionē  
 ipsius G. intrabit & ipm a possessionē sua  
 ejecit modo & forma p̄out infra scribe G.  
 ulterius vers ed narrabit. Et qđ p̄d' R. R.  
 modo Def. est Guardianus p̄d' Anne &  
 Eliz. Dublin & ad ea4 ulum intrabit. Sed  
 utrum super totam materiam p̄d' per  
 Cur' p̄d' in forma p̄d' compert' p̄d' R. R. sit  
 Culpabilis de transgr & Ejection p̄d' nec-  
 ne Cur' p̄d' penitus ignorant Et petunt  
 inde advisamentū Justic & Cur' hic Et  
 si super tota materia p̄d' in forma p̄d' com-  
 pert' videbitur Justic & Cur' hic qđ p̄d' R.  
 R. est Culpabilis de transgr & Ejectione  
 infra script' tunc Cur' p̄d' super Sacrm  
 suum p̄d' dic' qđ p̄d' R. R. est Culpabilis  
 de transgr & ejectionē infra script' modo  
 & forma p̄out p̄d' G. A. interius ver-  
 sus eum querit Et assidunt dampna ip-  
 sius G. A. occasione transgr & Ejectionē  
 ultra



ultra mis & custag sua per ipsu circa sextam suam in hac parte appoic ad sex' denar Et pro mis & custag ill ad 53 s. 4 d. sed si super tota materia pd' in forma pd' comperre videbitur Justic & Cur hic qd' pd' R. R. non est Cul de transgr & Ejection pd' tunc Jur' pd' super Sacrm su pd' die Qd' pdice R. R. non est Culpabilis de transgr & Ejection pzed' prout idem R. interius pro se placitando allegabit Et quia Cur die Dni Regis nunc hic de judicio suo de & super premissis reddend' nondum addisac Dies inde dat est pzed' G. A. qd' sic coram Dno Rege apud Westm die Mercurii pr' post Pasch Secd Trin de Judicio suo inde audiend' Et qd' Cur dicti Dni Regis hic nondum, (tc) (And so is continued until Trinity Term next following) Ad quem diem coram Dno Rege apud Westm veni partes pzed' per Altoz suos pd' sup quo visis Et per Cur dicti Dni Regis nunc hic plenius intellectis omnibus & singulis premissis maturaque deliberatione superinde hita considerata est qd' pd' G. A. recuperet vera pzed' R. R. Termin suu pzed' adhuc ventur de & in tenitis pzed' cum pertin ac dampna sua pd' per Jur' pd' in forma pd' assess necnon 13 l. 6 s. 8 d. pro mis & custag suis eidem G. A. per Cur dicti Dni Regis nunc ex assensu suo de incro adjudicac Que quidm dampna in toto se atting ad 16 l. 8 s. Et pzed' R. R. capiac, &c.

Cur' non  
advisat'.

K's Bench.

There are several other Forms of *Postea's*, as the Action, Verdict, and divers sorts of Proceedings require, which would take up too much room in this small Treatise; these are inserted as being of general use, and to give insight into the Forms and Methods of drawing them up; and as was observed before, if the Trial be at the Assizes in the Country, the Judges Associate ingrosseth the *Postea* on the Record, and so in those Cases it is not the Attorney's business, he only carrieth it to the Master to have Costs taxed, and then enter up Judgment according to the former and following Instructions.

Costs taxed  
on the Re-  
cord after  
the *Postea's*  
return'd.

Four days  
allow'd for  
Arrest of  
Judgment.

When you have the *Postea* engross'd, carry it to the Clerk of the *Postea's* to be marked, who is Mr. *Thacker*, and sits in the *King's Bench* Office for that purpose, and he will write on the top of your *Postea* the day of the Month. D. by *Francis Thacker*, for which you pay him 4 *d.* Then carry your *Postea* to the Clerk of the Rules, and desire him to give a Rule upon the *Postea*, for which you must pay him 10 *d.* That Rule will be out in four days, if Sunday doth not intervene, and then five; for the Defendant hath always four days to move the Court in Arrest of Judgment, if he hath any Cause to shew, as that neither he nor his Attorney had notice of Tryal, or that the Record differs from the Declaration pleaded unto, in some material Point; and several Causes may be alledged, of which generally Affidavit ought to be made.

When the Rule is out, if Judgment be not arrested, you must now have the Record stamped

stamped on the Back with a double Half <sup>K's Bench.</sup> Crown Stamp, and carry it to the Master of the Office, Mr. *Clarke*, and he will tax you further Costs, which are called Costs *De Incremento*, and then is your Judgment fit to be entred.

But if your Tryal be at the Assizes in the <sup>Postea upon</sup> Country, then you do not take away the <sup>a Tryal at</sup> Record and *Distingas* with you, but the <sup>the Assizes.</sup> Associate keeps it till the next Term, and indorses the *Postea* upon it, for which he receives his Fee at the Tryal; and you are to call upon him a little before the beginning of the ensuing Term, to put him in mind to have the *Postea* ready; and then you must proceed to have it marked, and a Rule given, and Judgment signed as before, yet for expedition you will have occasion to enter the *Postea* your self. Now for the entering Judgment the Judgment, care must be taken that no <sup>to be entred</sup> Error be committed. The Rolls to enter <sup>on the Roll.</sup> them upon are delivered out by Mr. *Bromfield* in the *King's-Bench* Office; you must make a small Margent about a Thumbs breadth, then begin about a Span from the top of the Roll in large set Court-hand in these words, *Adhuc de Termin Sed Hilarii* (as the Term is) *Cesse J. Holt* &c. Then next "it is usual according to a late Rule, to write the Warrants of Attorney next, after this manner, viz.

*London scilicet A. B. pō lō suo J. C.* <sup>Warrants</sup>  
*Attornatum suum versus C. D. de plico* <sup>of Attorney</sup>  
*transgr' super Casum* [or as the Action is, <sup>on the Roll.</sup>  
*as de plico debti, &c.* (If there be an alias

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dicē in the Declaration, your Warrants of Attorney must be so too, and so if there be Executors or Administrators,) Then under the first you enter another for the Defendant thus: *London scilicet*) *C. D.* (*viz.*) (the Defendant) *pō lō suo C. F. Attornae suum verlus A. B. in plito pō* (some put it ad sece *A. B. in plito pō* which seems the better way) then within half an Inch under begin to enter the Judgment thus:

Upon a Trial  
in London

*London scilicet, Memorandum, (Ec.)* So Recite the whole Record till you come to the end of the Issue, and then say, *Postea continuat inde process inter ptes pcedice de plito pō p Jur pced' pōir inde inter eas in respicō coram Dñō Rege apud Westm usq; Diem, Ec.* (as it is in the Jurat of the Record) *nisi Dilcus & fidelis Iohes Holt Mil Capital Justic Domini Regis ad plita in Cur ipsius Dñi Regis Coram ipso Rege tenend' Assign prius die (Ec.)* (as in the Jurat) *apud Guildhall London per formam Statut vend p defend Jur' (Ec.) ad quem diem coram Dño Rege apud Westm vend pcedice A. B. per Attornatum suum pō & pcedat Capital Justic coram quo, Ec. Mis hic Record' suum coram eo habie in hec verba scilicet Postea Die & Loco, (Ec.)* there Recite the whole *Postea verbatim*—*Iō Cons est quod pcedice A. B. recuperet verlus pcedatum C. D. debitum suum pcedice & dampna sua pced' per Jur pced' in forma pō assess nec non 7 l. 16 s. 8 d. (viz.)* [the Cost de Incremento taxt by the

Judgment.

## Rolls and Judgments.

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the Master] *pro mis & custag' suis pre-*  
*dictis eidem A. B. p Cur' dicti Dni Re-*  
*gis nunc hic ex assensu suo de Incro' ad-*  
*judicar' que quidam dampna in toto se at-*  
*tingunt ad trigine Lib' (Ec.)* summing up  
the whole) *& p'd C. D. in M'ia (Ec.)* (and  
write *M'ia* in the Margent: But in Eject-  
ment and in Trespass, and upon *Non est*  
*factum* pleaded, there instead of *& predictus*  
*C. D. in M'ia* you must say,) *Et predictus*  
*C. D. Capiatur, (Ec.) & Capiatur* in the  
Margent. And thus is your Judgment en-  
tered and finished: And you must remember  
to leave a good space between it, and the  
beginning of another Judgment, that you  
may have room to enter *Committitur*,  
which is when the Defendant is charged in  
the *King's-Bench Prison*, and to enter Satis-  
faction acknowledged upon the Record, &c.

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Mis.

Capiatur.

And note, That you may enter the Issues  
and Judgments on both sides the Roll; but  
you must remember not to write too near  
the bottom of the Roll on the fore side of it,  
because within an Inch of the bottom, and  
where the Roll is of full breadth, you are to  
write the number of the Roll, and the chief  
Clerk's Name thus, in great Court-Hand and  
Figures:

**Rollo cxxv. Holt & Coleman.**

The same method for those at the Assizes  
in the Country (*mutatis mutandis.*)

Nota.

Upon a Tri-  
al at the  
Assizes.

When you have occasion to write on the  
back side of the Roll, you must begin over  
against the first line of your *Memorandum*,

H 3

on



**K's Bench.** on the fore-side or thereabouts, leaving a Margent as on the other side.

Next we will shew how to enter Judgments that are without Tryals.

*How to Enter Judgments without Tryals upon the Roll.*

**T**Hese Judgments are entred upon the like Rolls as the other; nay, you may enter them upon the very same Rolls if you will, as is usual, observing to leave spaces for *Committiturs*, Satisfactions, and such Matters as may occasionally follow each Judgment.

As  
*Nil Dicit.*  
*Non Informatus.*  
*Cogn' Acc'o-  
nem.*

Now by way of Repetition I say,

First, Make a Margent of an Inch wide, then Rule a Line about a Span, from the top of the Roll, then write in great Hand:

[*Adhuc De Termino Sed Trinie C. J. Holt Hil.*] as the Term and Chief Justice's Name requires.

Next enter your Warrants as is before observed thus, (*viz*)

For the  
Plaintiff.

*Sonus ff. A. B. po' lo' suo C. D. At-  
torum suum versus D. F. [als dice, &c. if it  
require] de placito Debit [or as the Action  
is.]*

For the De-  
fendant.

*Sonus ff. E. F. po' lo' suo G. H. At-  
torum suum versus A. B. de plito debi.*

[Or

## Rolls and Judgments.

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K's Bench.

[Or thus for the Defendant.]

**Solis ff. Idem C. f. po' lo' suo G. D.**  
**Attorn' suu' ad A. B. de p'tito p'd.**

Next under within half an Inch begin to enter Judgments.

And note, That some of these Judgments without Tryal are by default, as **Nil Dicit**, some by Confession of the Party, as **Cogn' Actonem**, some by Assent of the Attorney, as **Non sum Informatus**, (&c.)

You seldom have any thing but the Declaration to enter these by, and the nature of the Judgment marked upon it, and Costs taxed on the Margent of the Declaration.

You must begin with a *Memorandum* either of the same Term, or of another [as you will see by the Declaration] as is before directed, to the end of the Declaration—**Et inde producit Sextam**, (&c.)

Then beginning a new Line, write your Judgment.

*Nil Dicit*, in Debt.

**E**t modo ad hunc diem scilicet diem . . . . . Thus with  
 . . . . . pr' post . . . . . [the first an Impar-  
 day of the Term Judgment is Entred] isto lance.  
 eod' Terminio usq; quem diem p'd C. D. hinc  
 licenciam ad billam p'd interloquend' &  
 tunc ad respondend', &c. coram Dño Rege  
 apud Westm' veni p'd A. B. p Attorn'  
 suu' p'd. Et p'd C. D. licet ad eund' diem  
 solempnic exacc' non veni nec aliquid die  
 in barram sive p'clusionem Accord' p'd' A. B.  
 p'd' p quod idem A. remanet vers' p'fac  
 C. inde indefens', &c. Jo' Consideratid  
 H 4 est

K's Bench.

Judic' sign.

20 Julii

1699.

Mia.)

est qđ pđ' A. recuperet verā p̄fac' C. debum  
 sud p̄ necnon 33 s. 4 d. [the Costs taxed]  
 p dampnis suis que sustinuit tm̄ orōne  
 detencon̄ debi illi qm̄ p mis' & Custag'  
 suis p ipm̄ circa sextam suam in hac parte  
 appo'it eidem A. p Cur' dice Dñi Regis  
 nunc hic ex assensu suo adjudicar. Et p̄  
 C. in mia, &c.

Note, That sometimes there is no Impar-  
 lance, as when the Judgment is con-  
 fessed, &c. the same Term the Decla-  
 ration is of, as followeth.

*Nil Dicit*, the same Term, in Debt.

Nil Dicit.

**E**t pđ' C. in p̄p̄ri persona sua veni &  
 defendi vim & injuri quando, &c. Et  
 per licenc' ad hil pđ' interloquend' Et ei  
 concediti, &c. Et sup hoc dies inde dāc  
 est partib' pđ' coram Dño Rege apud  
 Westm̄ usque diem . . . [the last day  
 of the Term] p̄ post . . . isto eod'  
 Terminio videt' p̄fac' C. ad Bill pđ' interlo-  
 quend' & tunc ad respond', &c. Ad quem  
 diem coram Dño Rege apud Westm̄ veni  
 pđ' A. p Attozū suū pđ' Et pđ' C. licet  
 ad eund' diem solempnic' exace non veni  
 nec aliquid (&c.) (as next before to the  
 end.)

Nil

*Nil Dicit, in Case of another Term, with  
a Memorandum.*

**E**t modo ad hunc diem scilicet diem . . . Nil Dicit.  
 pr' post . . . [the first day of the  
 Term Judgment is entred] isto eod' Ter-  
 mino usq' quem diem p'd' C. D. huit licen-  
 ciam ad villam p'd' interloquend' & tunc  
 ad respondend', &c. coram Dño Rege a-  
 pud Westm' veni p'd' A. B. p' Attorn' suu'  
 p'd' Et per q'd' q'd' C. D. ad nari suam p'd'  
 respondeat Et p'd' C. D. licet ad eundem  
 diem solemniter exate non veni nec aliquid  
 dic' in barram sive pelutionem Actionis p'd'  
 A. B. p'd' p' quod idem A. B. remanet in-  
 de versus eum indefens' — Ob quod  
 p'd' A. B. dampna sua p'd' versus prefat'  
 C. D. occasione premisa p'd' sustine' recuperare  
 debeat Sed quia Cur' dice Dñi Regis  
 nunc hic incogn' existit que dampna p'd'  
 A. B. occasione p'd' in hac parte sustinuit  
 Ideo p'cept' est Dic' q'd' p' Sacrm' duode-  
 cim probor' & legium hominu' de ballia Writ of In-  
 sua diligenc' inquir' que dampna p'd' A. B. quiry.  
 tm occasione premisa qm' p' Mis' & custa-  
 giis suis p' ipm' circa sextam suam in hac  
 parte appo'it sustinuit Et Inquisitionem  
 quam inde cepit Dño Regi apud Westm'  
 die sicutii pr' post' tres septimanas Sed  
 Michis [the Return of the Writ]  
 sub Sigillo suo & Sigillis eor' p' quo-  
 rum Sacrm' Inquisitionem ill' cepit mit-  
 tat una cum h'i Dñi Regis ei inde di-  
 rect,

K's Bench. *rece, idem dies dat est eidem A. B. ibidem, (Ec.)*

Hereupon a Writ of Inquiry of Damages must be made out, the Form whereof see after, where you may find how to enter Judgments upon this Writ. *Ad quem diem, (Ec.) pag. 113, &c.*

*Nil Dicit*, in Case the same Term with the Declaration.

*Nil Dicit.*

**E**t p̄d E. p̄ B. C. Attoꝝ suū veni & defendi vim & injuri quando, &c. Et p̄d A. [the Plaintiff] per qđ p̄d E. ad Barr suam p̄d respondeat sup quo p̄d E. habet diem Lune p̄r post Quinden Sed Martini [the last day of the Term] sibi dat p̄ Cur Dñd Regis hic ad respondend, &c. Et idem E. ad eund diem solempnie exacc ad respondend non venit nec idem Attoꝝ p̄d E. pro ipso E. aliquid inde dicit in barrā sive p̄clusionem Attoꝝnis p̄d A. p̄d p̄ quod idem A. remanet inde plus eund E. indefens, &c. Ob quod p̄d A. dampna sua versus p̄lar E. octone \* p̄mils p̄d sustent recuperare debeat, sed quia Cur, &c. [ut p̄r antea.]

\* If in Trespass, you must enter as before, only mutatis mutandis, and instead of octone p̄mils p̄d, you must say (octone Transgr̄ p̄d.)

In Assault octone Transgr̄ & Insult p̄dicta.

In



In Assault and Imprisonment, octone **K's Bench**  
 Transgīt insule & imprisonment pre-  
 dice.

In Covenant, octone fraccon Conventi-  
 on p̄d.

In Assumpsit, octone non perfozmation  
 pmission & assumpcon p̄d.

In Ejectment with Damages say as before,  
 usque ——— indefens, (Ec.) Ideo cons est  
 qd' pred' A. Terminum suū adhuc ventur  
 de & in tentis p̄d' cum pertin ac dampna  
 sua octone transgīt & ejectcon p̄d' verlus  
 prefat Def. recuperare debeat Sed quia  
 Cur' dice Dñi Regis nunc hic coram ip̄o  
 Rege incogn existit que dampna p̄d' A. oc-  
 tione transgīt & ejectcon p̄d' sustinuit Io'  
 precept est Dic qd' prefat A. plenar pos-  
 session suam Termini sui adhuc ventur de  
 & in tentis p̄d' cum pertin sine dilone here  
 faciat Et qualiter hoc hze dice Dñi Regis  
 fuerit exerce dice Dño Regi apud Westm.

die . . . . . p̄or' post . . . . . consta Writ of  
 re fac Precept est etiam eidem Dic qd' per Inquiry.  
 Sacrm duodecim p̄bor & legalium ho-  
 minū de ballia sua diligēte inquit que  
 dampna p̄d' A. tñ octone transgīt & ejec-  
 con predice qm̄ pro mis & custag suis p  
 ipm̄ circa scetam suam in hac parte susti-  
 nuit Et Inquisicon qm̄ inde cepit dice  
 Dño Regi apud Westm ad prefat diem sub  
 sigillo suo & sigillis eorum per quorum  
 Sacrm Inquisicon ill cep mittat una  
 cum brevi die Dñi Regis inde sibi direct  
 Idem dies dar est prefat A. ibidem, Ec.

K's Bench.

If the Judgment be with a remittit dampna say as before, usque—Ideo cons' est (Et. usque) recuperare debeat Et super hoc pd' A. gratis hic in Cur' remittit p'efac' B. tñ omnia huiusmodi dampna mis' & custag' que p'efac' A. in hac parte adjudicent' qm' omni' Judic' & executione p' dampnis mis' & custag' pd' Jo. pd' C. de dampn' mis' & custag' pd' acquit' exist' Et per idem A. h'ze Dñi Regis Dic' Comd' S. dirigenti de here facienti possessione termini sui pd' adhuc ventur' de & in tenens p'edice cum pertind' Et ei concedit retornabile coram Dño Rege apud Westm' die . . . . . p'ox' post . . . . . Idem dies dñe est p'efac' A. ibidem, Et.

Judgment by Cogn' Acc'onem, in Debt without Imparlance.

Cog'n  
Actionem.

Such Costs  
as are tax-  
ed.

**E**t pd' A. p' C. B. Actoꝝ suū vend' & defend' vim & injur' quando, &c. Et dic' qd' ipd' non potest dedicere Acc'onem pd' C. sup'dice nec quin ipd' debet eidem C. pd' 10 l. & 15 s. [if upon Bond say, nec quin scriptum oblig' pd' sit factum ipsius' A. nec quin ipd' debet eidem C. p'edice 10 l. & 15 s.] modo & forma p'out pd' C. sup'ius versus eum queritur Jo' Cons' est qd' pdice C. recupet vers' p'efac' A. Debum suū pd' necnon \* 34 s. p' dampnis suis que sustinuit tñ or'cone detentonis Debi illius qm' p' mis' & custag' suis p' ipm' Circa Sextam

# Judgments.

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Sectam suam in hac parte apposit per  
Cur Dñi Regis hic ex assensu suo adjudi-  
cat Et pd' A. in mia, &c.

K's Bench.

Set down  
in the Mar-  
gent when  
Judgment  
was signed.  
& Mia'.

Cogn. Acc'onem by Admin.

**E**t pd' A. B. & C. D. per E. f. Me  
suo veni & defend' vim & injuri quan-  
do, &c. Et dicunt qd' ipd' non possunt dedi-  
cere quin scriptum obligatoriu pd' sit fa-  
ctum p' fac G. nec quin ipd' detinent p' fac  
H. pd' Centum Libr modo & forma prout  
pd' H. superius versus eos queritur Jo  
Cons est qd' pd' H. recuperet versus p' fac A.  
& C. debm suu pd' ne non 3 l. 10 s. pro  
dampnis suis que sustinuit tm octone de-  
centonis debti illi qm p' mis & custag' suis  
p' ipm circa sectam suam in hac parte ap-  
posit p' Cur Dñi Regis hic ex assensu suo  
adjudicat de bonis & catallis que fuer' pd'  
G. tempore mortis sue in manib' ipsorum  
A. & C. administrand' Si tantum in ma-  
nibus suis heant Et si tantum non heant  
tunc dampna pd' de bonis & catallis ip-  
sorum A. & C. propri' levand' Et iidem A. &  
C. in mia, &c.

Judic' sign'  
— die —  
An' Will'  
terti' unde-  
cimo.

Mia'.

If the Defendant hath pleaded non est  
factum, and Issue thereupon, and after  
the Defendant is willing to confess the  
Action, then enter it thus :

Ad quem diem coram Dño Rege apud  
Westm veni partes pd' p' Attorū suos pd'  
Et super hoc pd' A. relicta verifikatione  
sua pd' p' ipm superius p'tens die pd' ipd'  
non

K's-Bench. non potest debicere Actionem pd' C. sup-  
 dice nec quin ipd' debet, &c. (ut primo  
 See after in Com. Pleas. sup'ra.)

Judgment by *non sum Informatus*, without an  
 Imparlance, in Debt.

Non In-  
 form.

\*Note, Some  
 of late leave  
 out the  
 words, Ma-  
 gistrum  
 suum.

**E**t pd' B. p C. Attoꝝ suū veni & de-  
 fend' vim & injuri quando, &c. Et pd'  
 A. pcc qd' pd' B. ad Parr suam pd' respon-  
 deat sup quo pdict Attoꝝ pd' B. dicit qd'  
 ipd' non est infoꝝ p eund' B. \* Magrū  
 suū de aliquo respons pꝛo eodem B. eid'  
 A. in pmissis dand', nec aliquid aliud inde  
 dic in barram sive pclusionem Actionis  
 ipsius A. pd' p quod idem A. remanet in-  
 de vers' pd' B. indefens', &c. o — o. Itē  
 Cons' est Qu' pd' A. recuper vers' pfac' B.  
 debum suū pd' necnon triginta sex solid'  
 & quatuor denar' pꝛo dampnis suis que  
 sustinuit tm octone detencionis debi illi  
 qm pꝛo mis & custag' suis p ipm circa Se-  
 ctam suam in hac parte apposit' eid' A. p  
 Cur' dict' Dñi Regis nunc hic ex assensu  
 suo adjudicat Et pdice B. in mid', &c.

Note, You must enter in the Margent when  
 Judgment was signed, as is before ob-  
 served.

See after for one with an Imparlance.

Non In-  
 form. in  
 case sur  
 Assumpsit.

Write as above usq; — indefens', &c. —  
 Ob quod pd' A. dampna sua versus pfac'  
 B. octone pmiss' pd' recuperare debeat, &c.  
 Sed quia Cur' dice dñi Regis nunc hic co-  
 ram ipso Rege incogit' existit que dampna  
 pd'

## Judgments.

III

pd' A. occasione pd' in hac parte sustinuit K's Bench.  
 It p̄cepte est Dic' qd' p̄ Sacrm ritim. p  
 boz & legium hominū de Ballia sua di-  
 ligentē inquit que dampna (tc. as in Nil  
 Dicit in Case, only instead of occasione p̄miss.  
 say occasione non perfozmato p̄missionē &  
 assumptōm pd', &c.)

If in Trespass, then as next above, only  
 mutatis mutandis, say occasione Cūlge  
 p̄dict.

If in Trespass and Assault, then say occasione  
 Cūlge & insule pd'.

If in Trespass, Assault and Imprisonment,  
 say occasione Cūgr' insule & imp̄sonamene  
 pd'.

Et sic de ceteris.

Note, If your Non Infozm be of another Non In-  
form' with  
an Impar-  
lance.  
 Term with an Imparlance, you must begin  
 as in others.

—Et modo ad hunc diem scit, &c. as before  
 (usq) Et idem B. defend' vim & injur'  
 quando, Et super hoc pd' A. per qd' pd' B.  
 ad Parr' suam pd' respond', &c. super quo  
 pd' Attozm pd' B. dic' qd' ip̄ non est in-  
 fozm per eund' B. Magrm suū (&c. as  
 before.)

We



K's Bench.

We will next proceed to Writs of *Execution* upon the aforesaid Judgments, and upon Judgments by Trial and Verdict.

But first we will see a Writ of *Inquiry of Damages*, where the Judgment is without Trial.

Note, The Clerks of the *Kings-Bench*, when they carry in their Entries, Docquet them thus on a Sheet of Paper in Court-hand.

Intraones A. B. gen und Cllicoꝝ  
R. B. Arm & C. C. gen capital Cleri-  
coꝝ Dnd Regis, &c. de Termino scd  
Crin Anno Regni Dnd Willi tercii  
nunc Regis Angl, &c. undecimo.

Teste J. Holt M<sup>st</sup>.

Somset. N. Pon culp in Calsgr  
inc A. B. Quer & } Rotlo 106  
D. C. Def.

Glouc N. Nil dic in debo p  
100 l. sur Obl  
inc A. B. Quer } Rotlo eod.  
& D. C. (et.) & p  
.. pdamp & mis  
And so of the rest.

With

## Writ of Inquiry of Damages.

**W**illus tertius Dei gra Angl Scot  
 franc & Hibnie Rex fidei defens,  
 &c. Vic S. saltem Cum A. B. nup in  
 Cur nra coram Nobis apud Westm per  
 Billam sine hnd nro implitasset C. D. in  
 custodi Mar' Marele nre coram Nobis  
 existend de eo qd ipd primo die Jani Anno  
 regni nre nono apud, (&c. and so on as  
 it is in the Declaration verbatim [ only say-  
 ing Anno regni nre 9<sup>o</sup>, 10<sup>o</sup>, or 11<sup>o</sup>, as it is  
 instead of Anno regni Dni Regis nunc ]  
 till you come to ) Ad dampnum ipsius A.  
 . . . Libra 24 Et inde pducit sextam, &c.  
 Taliterq in eadem Cur' nre coram nobis  
 pcess fuit qd pd A. dampna sua versus  
 pfac C. octone pmiss. pd recuperare debeat  
 Sed quia Cur' nre coram nobis incogn  
 existit que dampna idem A. octone pd su-  
 stinuit Jo tibi pcipimus qd per Sacrm  
 duodecim pbozum & legalium hominum de  
 balliva tua diligene inquir' que dampna  
 idem A. tm octone pd qm p mis & custag'  
 suis p ipsum circa sextam suam in hac parte  
 appoie sustinuit Et Inquisitionem quam  
 inde feceris nob apud Westm die Mercurij  
 pr' post tres septianas sed Michis [ the  
 Day of the Retorn ] sub sigillis vris & sigil-  
 lis eorum p quo 24 Sacrm Inquisitioni illi  
 repis constare fac Et heas ibi tunc hoc  
 brebe Teste J. Holt Hil apud Westm  
 28 die Junij Anno regni nre undecimo.

Holt and Colman.

A

The

The Form of a *Spa* ad *Testificand* upon this Writ of *Inquiry*, for the Plaintiff's Witnesses.

**W** Illius tertius Dei gra Angl Scoc Franc & Hibernie Rex fidei Defens (Ec.) J. S. S. C. R. W. (naming your Witnesses) salutem Vobis & cuilibet vestro precipimus firmiter injungend quod omnibus aliis premissis & exculaton quacumque cessand in propriis person vris sitis & quilibet vrm sit coram Vic S. ad diem & locum quos latoz hujus brevis vob in hac parte pfixerit ad testificand veritat in quadam materia Controversie in Cur nostra coram nob apud Westm penden int N. B. quere & C. D. Def. de plito Cnsgt [or Cnsgt super Casum, Ec.] ex parte pdice N. Et hoc nullatenus omittatis nec aliquis vrm omittat subpena cujuslibet vrm cene libza. Teste J. Holt Mil, &c.

Upon this you must fill up a Ticket to leave with each Witness.

(See before in Form of a Ticket upon a Trial.)

*Note also*, That you must give the Defendant or his Attorney notice of your Intention, to execute the Writ of *Inquiry* after this manner :

Mr. A. N. versus B. in Case.

**P**Ray take notice of the Executing a Writ of Inquiry in this Cause on the 10th day of this Instant July, at Ten of the Clock in the Fore-noon of the same day, at the Court-House at Westminster. [ If it be in Middlesex and Term-time ; otherwise you must name the Time, the Town, and Sign of the Place. ]

July the 7th.  
1699.

From your Servant,  
H. Y.

The Entry and Continuance of the Judgment on the Roll, upon this Writ of Inquiry.

**A**D quem diem coram Dño Rege apud Westm̄ vend p̄ A. B. p̄ Attoꝝ suū p̄ Et Die videlt P. M. M̄it Die Com̄ D. p̄ retoꝝ quādam Inquisitō coram eo apud Castrum U. in Com̄ S. p̄ 10 die Julij Anno Regni Dñi Wilhelmi tertij nunc Regs̄ Angl undecimo p̄ Sacm̄ p̄boꝝ & legiū hominū de Ballia sua cape p̄ quam compe existit qđ p̄ A. B. sustinuit dampna octone p̄miss. p̄ ultra mis̄ & custaḡ sua p̄ ipm̄ circa sextam suam in hac parte appoit ad 100 l. & p̄ mis̄ & custaḡ illi ad sex denar̄ Ideo cons̄ est qđ p̄dicte A. recuperet versus p̄lac̄ C. dampn̄ p̄dice p̄ Inquisitō p̄ superius compe necnon 14 l. 19 s. & 6 d. p̄ mis̄ & custaḡ Incim̄.  
luis p̄ ipm̄ circa sextam suam in hac parte  
I 2 appoit

**R**'s Bench. appōit eidem A. p Cur dicti Dñi Regis  
 nunc hic ad requisitō suam de intro ad-  
 judicat que quidā damna in toto se at-  
 tingad 115 l. Et p̄dire C. in mia (Ec.)

If it be in Trespass, you say Capiatur,  
 &c.

*Of Arresting Judgments.*

**B**Y the Course of the Court after a Ver-  
 dict there must be a Rule given (which  
 is out in four Days ) before the Plaintiff can  
 enter his Judgment or take out Execution;  
 which time is given for the Defendant to  
 move in Arrest of Judgment.

If the Cause be tried within Term, the  
 Rule may be given the day after the Trial,  
 the *Postea* being indorsed and marked.

If the Sitting after the Term, or at the  
 Assizes, the Rule cannot be given until the  
 first day of the ensuing Term.

And Note, That by the Rules of the  
 Court, no Council ought to move any thing  
 in Arrest of Judgment; except the Roll  
 whereon the Judgment is entred, or the  
*Postea* be in Court.

And it is said to be a sufficient matter to  
 Arrest a Judgment ( when sufficient Notice  
 of the Trial was not given, according to the  
 Course of the Court ) so as to obtain a Rule  
 for a new Trial upon the Old Plead-  
 ings.

Also one may speak in Arrest of Judg-  
 ment given on a *Nilil dicit*, after the Writ  
 of *Inquiry of Damages* : ( Upon which Writ  
 the



## Executions.

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the like Rule is to be given as upon a Po-<sup>R's Bench</sup>  
*stea.*)

And Note, That a Judgment upon *Nihil dicit* ought not to be entred, by the Rules of the Court, until two Rules have been given in the Office.

And no Judgment ought to be entred until the Costs be taxed, and the Judgment signed by the Secondary of the Office.

After Judgment by Confession, or *Nihil dicit* Entred, or after a Verdict at the Assizes, and Judgment thereupon, the Writs of Execution are made out, which are of Three sorts :

1. Either against the Body, as a *Capias ad satisfaciendum*.
2. Or against the Goods, as a *Pieri facias*.
3. Or against the Lands, as an *Elegit*.

The severall Forms whereof follow.

But Note, That if you once charge the Body in Execution, you have no Remedy against the Goods or Lands, unless the Defendant escape voluntarily, or be discharged by Priviledge of Parliament, *Stat. 1 Jac. Cap. 13.*

## Ca Sa in Debt.

\* If there  
be an *Alias*  
*die'* you  
must recite  
it.

**W**illius certius Dei grā Angl Scot  
Franc & Hibern Rex fidei defens',  
Ec. Vie S. saltem precipimus tibi qđ Ca-  
pias C. D. si \* inveniē scit in ballia tua  
& eum salvo custod ita qđ Habeas corpus  
ejus coram Nobis apud Westm die ....  
Ec. (the Return) ad satisfaciendū A. B. de  
viginti libris de debito [the Debt in the De-  
claration] quas idem A. B. nup in Cur  
nra coram Nobis plus eum recuperavit  
necnon de triginta solidis & octo denar [the  
Costs] qui eidem A. B. in (eadem Cur'  
nra coram Nobis adjudicac fuer') pro  
dampnis suis que sustinuit tam octone  
detenendū debi illius qm p mis & custag'  
suis p ipm circa sextam suam in ea parte  
appoie Unde pđ C. D. convict est sicut  
Nobis constat de Recordo. Et heas ibi  
tunc hoc hđ Teste J. Holt Mil apud  
Westm .... die .... Anno Regni nrd un-  
decimo.

Holt and Colman.

Note, That if the Action was by way of  
Original, you must make your Ca Sa re-  
turnable ubicunq.

Ca

**Ca Sa** in Case upon Assumpsit.

**W**illius tertius (et, as before) ad satisfaciendū A. B. de 20 l. p dampnis suis que sustinuit tñd octōne non performatōis cuiusdam pmissionē & Assump̄ eidem A. p p̄fāc C. nuper facē quam p̄promissā & custag' suis p ipsum circa sextam suam, &c. ( ut antea. )

**Ca Sa** in Trespass upon the Case General.

Ad satisfaciendū A. B. de 20 l. p dampnis suis que sustinuit tñd octōne cuiusdam Transgr̄ super Casum eidem A. p p̄fāc C. nup illac qm̄ p missā & custag' suis p ipm̄ circa sextam suam in hac parte appoie, &c. ( ut antea. )

In Trespass and Assault.

Tam octōne cuiusdam tñlgr̄ & insule p ipm̄ C. sup eund A. nuper facē qam p̄promissā & custag', &c.

In Trespass only.

Ad satisfaciendū A. B. de 20 l. p dampnis suis que sustinuit tam octōne cuiusdam Tñlgr̄ eidem A. p p̄fāc C. nuper illac quam p missā, &c. ( ut antea. )

In Covenant, say

Tam octone cuiusdam convencon frace  
eidem A. p pfac C. nuper face quam p  
mis, &c. ( ut in al. )

In Ejectment, say

Tam octone cuiusdam Cnlsgr & Ejecton  
firme eidem A. p pfac C. nuper illae quam  
p mis, &c. ( ut in al. )

Ca Sa for several Damages in Trespass.

**W**Illius tertius (&c.) Dic S. saltm  
pripimus tibi Ad capias C. D.  
nuper de, &c. & E. f. nuper de, &c. Ad sa-  
tistaciend A. B. duos solis p dampnis  
suis que huit octone captonis & abductio-  
nis sex Obium ejusdem A. Et etiam col-  
dem C. & E. ad satisfaciend eidem A. de  
sex libris que eidem A. in Cur nra coram  
Nobis apud Westm adjudicat fuer' p mis  
& custag' lais octone Cnlsgr' ps eidem A.  
p pfac C. & E. vi & armis & contra pacem  
nram apud G. in Com tuo illae unde  
convicti sunt sicut nobis constat de Recor-  
po Et heas (&c.)

Testas

Testat Cā Sā in Debt.



**W**illius tertius Dei Gra Angl  
 Scoc Franc & Hibnie Rex fidei  
 defens (Ec.) Die L. saltem Cum Die nrā  
 S. uuper pcepimus qđ caperet C. D. si  
 invene fuisset in Balliba sua & eñ salbo  
 custod ita qđ heret corpus ejus coram Nob  
 apud Westm ad certum diem jam pterie  
 ad satisfaciens A. B. de 20 l. de debo quas  
 idem A. B. nup in Cur nrā coram Nob  
 flus eum recuperabit necnon de 30 s. &  
 8 d. qui eis A. B. in ead Cur' nrā coram  
 Nob adjudicat fuer p dampn' suis que  
 sustinuit ind occon detencionis debi ill qm  
 p mis & custag' suis p ipm circa lectam  
 suam in hac parte appoit Unde pđ C. D.  
 conbice est sicut Nobis constat de Recordo  
 Dñs Die nostr' S. ad diem ill Nob re-  
 torid qđ pđ C. non fuit invene in Ballia  
 sua sup quo ex parte pđ A. in Cur' nostra  
 coram Nob sufficiens testat est qđ pđ C.  
 latie & discurr' in Com tuo Itō tibi pci-  
 pimus qđ capias eum si invene fuit in  
 Ballia tua Et eum salbo custod ita qđ  
 habeas corpus ejus coram Nobis apud  
 Westm die ... ppor' post ... Ad satisfaci-  
 ens pfac A. de debo & dampnis pđ Et  
 heas (Ec.)

Cā Sā





**Ca Sa** against the Bail in Debt.

**W**illus (Et.) precipimus tibi qd capias C. D. de, Et. & E. p. de (Et.) Manucapere G. H. si, (Et. as before) ad satisfaciendū A. B. de 200 l. de debito necnon de 4 l. p. damnis suis (Et. as before for Debt) Unde idem G. convicte est sicut Nob constat de Recordo Et unde in Cur' nra coram Nobis apud Westm' considerat est qd pdice H. heat executionem s'us p'fac C. & E. p. debite & dampnis pdice juxta vim formam & effectum cujusdm' Recordi per ipsos C. & E. in Cur' nra coram Nobis p' plac G. cognit Et heas (Et. ut in al.)

Note, There ought to be a **Ca Sa** against the Defendant, and a **Non est inventus** returned and filed before the suing forth this Writ against the Bail.

**Ca Sa** against the Plaintiff for Costs upon a Nonsuit.

**Ad capias A. B. Et.** — **Ad satisfac** D. C. juxta formam Statuti in huiusmodi casu inde nuper edicte & p'vis de 5 l. eidem D. p. miss & custag' suis in Actone quadam in Cur' nra coram Nobis s'us ipm' D. ad sece predice A. de plito debi [or Trans sup Casum, as the Case is] adjudicat Unde idem A. postmodum Actonem illi non fuit prosecut Et heas ibi tunc hoc b'p' Teste (Et.)

**Ca**

**Ca Sa** for Costs against the Plaintiff after  
a Verdict.

**Ad** satisfacere **D. C.** de 30 s. eidem **D.**  
juxta formam Statuti inde nuper edicte &  
pbiis p mis & custag suis p ipm circa  
defensionem suam in quadam Actione debi  
[ as the Action is ] ad sece pdice **N.** in Cur  
pdice adjudicat Et heas ( &c. ut in al. )

Note, That if you make out a **Ca Sa**  
after a **Scd fd** hath issued, then after the  
Words sicut **Nobis** constat de Recordo, you  
must add,

— Et unde in eadem Cur nra coram  
**Nobis** cons est qd pdice **N.** habeat  
Execucionem svs pdice **D.** de debo &  
dampnis pdice Et habeas, &c.

**Ca Sa** for an Administrator.

**Ad** satisfaciens **A. B.** gen Administrat  
omnium & singulorum bon & catall Jurid  
& Creditoꝝ que fuer **C. B.** nup defunce  
qui obiit intestat de decem libris de debito  
necon ( &c. ) p dampnis ( ut in al ) sicut  
nobis constat de Recordo Et unde in ea  
dem Curia nostra coram nobis cons est  
qd ps **N.** inde heat execucionem suam. Et  
heas ( &c. ut in al. )

For an Executor.

**Ad** satisfaciens **A. B.** Gen Executori  
Testi

K's Bench. *Testi & ult Voluntate C. B.* defuncte de  
 ~~~~~ decem libris ( &c. ut antea. )

Fieri Facias in Debt.

**W**Illus tertius Dei gra Angl Scoe  
 Franc & Hibnie Rex fidei defens  
 &c. Vic S. saltem precipimus tibi qd de  
 bonis & catallis C. D. [and if it be upon  
 a Bond, you must say alias dice, as in the  
 Obl.] in Ballia tua fieri fac centū libi  
 quas A. B. nuper in Cur nra coram No-  
 bis apud Westm recuperabit versus ed  
 de debo necnon 30 s. qui eidem A. nuper in  
 eadem Cur nra coram Nobis adjudicac  
 fuer p dampnis suis que sustinuit tam  
 octone detentōnis debi ill qm p mis & cu-  
 stag suis p ipm circa sextam suam in hac  
 parte appōie unde convice est sicut Nobis  
 constat de Recordo Et denar ill heas co-  
 ram Nobis apud Westm die Mercurij pr'  
 post Quinden Pasche Ad reddend pfac  
 A. de debo & dampnis pōice Et heas ibi  
 tunc hoc h2o Teste ( &c. )

Id Id in Case upon Promise.

—As before usq; — p dampnis suis que  
 sustinuit tnd octone non pformacōn cujus-  
 dam pmissiōn & assumptōn eidem A. per  
 pfac C. nuper fact qm p mis & custag  
 suis ( &c. as before. )

In

## In Covenant.

— As before usq; — p damnis suis que  
sustinuit tam octōne fractōnis cuiusdam  
Conventōd inter p̄fac C. & p̄dice A. nuper  
facte qm̄ p mis & custag suis p ipm̄ circa  
sectam suam in hac parte appōie (Ec. ut  
antea.)

## In Ejectment.

Que sustinuit octōne cuiusdam Cūlgr  
& Ejectōd firme p̄fac A. p p̄dict C. Di &  
armis & contra pacem nram apud C. in  
Com̄ tuo illac (Ec.)

## In Trespass.

Octōne cuiusdam Cūlgr eidem A. p p̄  
C. Di & armis (Ec. ut p̄ox' antea.)

## Against an Administrator.

Qd̄ de bonis & catallis que fuer̄ C. D.  
defuncte tempore mortis sue in manibus  
& custod̄ C. f. Administrac̄ omnium & sin-  
guloꝝ bonoꝝ & Catalloꝝ Jurid̄ & Credi-  
toꝝ que fuer̄ p̄dice C. tempore mortis sue  
qui obiit intestac̄, Ec. existēd in ballia tua  
Fieri fac̄ 100 l. quas A. B. (Ec.) Unde con-  
vice est sicut nob̄ constat de Recor̄do si tan-  
tum in manibus suis habeat & si tantum  
in manibus suis non heat tunc dampna  
p̄s de bonis & catallis ipsius C. f. p̄p̄  
Et denar̄ ill̄ heas (Ec. ut in al.)

Note,

R's Bench.

Note, If it be against an Executor, you say  
**Qd de bonis & catallis que fuer A. B.**  
**defuncti nuper dice (Et.) tempore mortis**  
**sue in manibus & custod C. D. Executor**  
**Testi & ule voluntate p̄d A. in ballia tua**  
**fieri fac (Et.)**

**fd fd** against the Plaintiff for Costs to the  
 Defendant.

**Qd de bonis & catallis A. B. in ballia**  
**tua fieri fac decem libi que C. D. juxta**  
**form Stat inde nuper edic & p̄bis in**  
**Cur nra coram Nobis adjudicat fuer pro**  
**mis & custag suis circa defensionem suam**  
**in quadam actione Transgi [ Transgi**  
**super Casum, &c.] ad sece p̄d A. Et denat**  
**ill heas coram Nobis apud Westm die**  
**(Et.) ad reddendi p̄fac C. p̄ mis & custag**  
**suis p̄d & heas (Et. ut in al.)**

A Testae **fd fd** in Debr.

**Nullus tertius (Et.) Dic I. lastm Cum**  
**Dic nro S. nuper p̄cipimus qd de bonis**  
**& catallis C. D. in ballia sua fieri fac**  
 100 l. quas A. B. nuper in Cur nra co-  
 ram Nob apud Westm recuperabit verā  
 eum de debito necnon 30 s. que eid A. nuper  
 in ead Cur nra coram Nobis adjudicat  
 fuer p dampnis suis que sustinuit tam oc-  
 tione detentōm debi ill qm p̄ mis & custag  
 suis per ipsum circa sectam suam in hac  
 parte appōie Unde convice est sicut Nob  
 constat de Recordo Et denat ill heret co-  
 ram



Elegit.

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K's Bench.

ram Nob apud Westm die Mercurij pr' post Quinden Pasche ad reddend p'fac A. B. de debo & dampnis p'd Deulq' Die n'r S. ad dicm ill' Nob retoznd q'd p'd C. nulla het bona seu catalla in ballia sua unde denar ill' fieri fac potuit super quo ex parte p'd A. in Cur nostra coram Nobis suffic testatid est Qd p'd C. bona & catalla het sufficid in ballia tua unde denar p'd fieri fac possis Ideo tibi p'cipimus q'd de bonis & catallis p'd C. in ballia tua fieri fac p'd 100 l. de debo & 30 s. p dampnis p'd Et denar ill' heas coram Nobis apud Westm die Sabti pr' post Crastid Ascen- ton Dnd Ad reddend p'fac A. B. de debo & dampnis p'd in forma p'd, &c. Et heas ibi tunc hoc bz'd Teste ( &c. )

Elegit.

**W**illius tertius Dei gra Angl Scoc Franc & Hibernie Rex fidei defens ( &c. ) Die S. lastem Cum A. B. nuper in Curia nra coram Nobis apud Westm per Bill' sine bz'd nro ac p' Iudic' ejuldem Cur' recuperabit s'us C. D. 100 l. de debo nec- non 40 s. pzo dampnis suis que sustinuit tam occone detencon' debi ill' qm p' mis & custag' suis p' ipsum circa sextam suam in hac parte appoit unde convic' est sicut Nobis constar de Recozdo Posteaq' p'd A. venit in Curia nra coram Nobis & Elegit sibi liberari omnia bona & catalla p'dice C. p'ter boves & afros de caruca sua & similit' medietat' om' & singuloz terrarum & Ten- tozum

K's Bench

tozum p̄d C. in Balliva tua juxta formam  
 Statuti inde nuper edic̄ & p̄obis quousq̄  
 debet & dampna p̄d plenar̄ inde lebabit  
 Ideo tibi p̄cipimus qđ omnia bona & ca-  
 talla p̄d C. in Balliva tua p̄ter boves &  
 afros de caruca sua & filie medietat̄ om-  
 nium terrarum & tēdoꝝ p̄d C. in Ballia  
 tua de quibus p̄d C. . . . . die . . . . .  
 Anno Regni nr̄i decimo quo die Judiciū  
 p̄d redditum fuit vel unqm̄ postea fuit  
 seie sine dilatione Libari fac̄ per rōnabil  
 ptium & Extene Tenend̄ sibi ut bonū & ca-  
 talla sua p̄op̄i Accciam tenend̄ medietat̄  
 teri & tenemene p̄d ut libum tenemene  
 suum sibi & assign̄ suis juxta formam  
 Statue p̄dice quousq̄ debet & dampna p̄-  
 dice inde lebabit Et qualie hoc h̄d nr̄m  
 fueris execue Nobis apud Westm̄ die (Ec.)  
 constare facias sub sigillo tuo & sigillis  
 eorum per quoꝝ Sacrm̄ Extent & app̄e-  
 ration̄ illi feceris Et heas &c.

Note, That if you execute an *Elegit* and  
 File it, you are barr'd from taking out  
 any other Execution from that Judg-  
 ment afterwards, unless evicted. *Vide*  
*Stat. 32 H. 8. cap. 5.*

*Elegit*

*Elegit* in Debt for a residue post *fd fd*.

Willus, &c. Cum A. B. — nup in Cur' nra [ &c. reciting the Recovery as before usq; ] sicut nobis constat de Recordo Cumq; superinde p b'nd nrm nuper pcepimus qd de bonis & catallis, &c. ( reciting the whole Writ of *fd fd*, and the Return ) Posteaq; p'dict A. venit in Cur' nra ( as before usq; ) iuxta formam Statuti in huiusmodi casu inde nuper edic' & p'vis quousq; 20 l. resid' debi' & dampn' p's plenat' inde levabit' Ideo tibi precipimus qd omnia bona ( &c. as before usq; ) vel unquam postea fuit seisse p rationabile pretium & extene tenend' ( &c. as before ) iuxta formam Statute inde nup edic' & p'vis quousq; p's 20 l. resid' debi' & dampn' p's inde levabit' Et qualie ( &c. as before. )

*Elegit* after an *Elegit*, upon discovery of more Lands.

Willus, &c. Cum A. B. nup in Cur' nra coram Nob' apud Westm ( &c. reciting the first Writ usq; ) quousq; debit' & dampn' p's inde levabis Et qualie p'cept' nostrum fores exerceat Nobis apud Westm die ( &c. ) constare fac' Tug; ad diem ill' nobis retord' quando Inquisicon' coram te apud Castrum E. ( tli die ) ult' p'tie per Sacrm duodecim &c. cap'e p qm comper'e existit qd p's E. fuit seisse in dim'o suo ut de feodo tempore recuperat'on' debi' p's

K

de

K's Bench.

**De Mañio de** (Ec. reciting the Return of the Inquisition) Et quia jam datum est nobis intelligi qđ pđ C. tempore Iudicii pzedice reddidit & postea huit & modo het diuersa alia Mañia terras & teñta ultra ea que in retozđ p̄specificat mentionantur quozum quidem mañioꝝ terrarum & testozum alioꝝ medietas in execucone pzo citioꝝ recupacone debi p̄s habere quoz debet Unde idem A. nob humillime supplicabit qđ iuxta Iuris exigentiam illi ita here queat Tibi igitur p̄cipimus qđ tam aliam medietatem omnium alioꝝ Mañioꝝ terraꝝ & teñtoꝝ ipsius C. qm̄ illoꝝ quoꝝ medietas in execucone pzo solucione debet p̄dice prius extene existit in Balliva tua sili in p̄sentia p̄fac C. ad inde p̄munienti si inesse voluerit p̄fac A. Tibi facias p̄ rōnabile p̄cedi & extene tenendi eidem A. & assigni suis ut libum teñtum suū quousq; p̄s centum libze plen fuerint leuac Et de eo quod deinde feceris nobis apud Westm̄ die . . . (Ec.) sub sigillo tuo & sigillis eoꝝ p̄ quozum sacm̄ Extene & app̄reciacon̄ illi feceris mittas una cum hoc bꝝd Teste J. Holt (Ec. ut in al.)

## A Writ of Possession.

**VV** Illus tertius Dei grā Angl  
Scot Franc & Hibernie Rex  
Fidei defens, Ec. Vic S. saltem Cum A.  
B. nuper in Cur nra coram Nobis apud  
Westm̄ per billam sine bꝝd nostro ac per  
Iudic

Judic ejusdem Cur recuperabit versus C. D. Termin suu adhuc ventur de & in tribus messuagiis viginti & quatuor acr terre (\* &c.) cum ptiū scituāe († &c.) que quidam C. f. tertio die (&c.) Anno (&c.) [ as in the Declaration ] eidem A. dimisit ad terminum annorum qui nondum pterit videlt a tricesimo die (\* &c.) usq; finem & tmiū septem annorū ex tunc pr' sequend & plenat complend & finient Virtute cujus quidm dimissionis idem A. in pdice tria messuag (&c.) cum ptiū intrabit & fuit inde possessionae quousq; pū C. postea scite eodem tertio die (&c.) Anno (&c.) pū Vi & armis in pū tria messuag (&c.) cum ptiū in & sup possession pū A. inde intrabit & ipm A. a firma sua pū emiū suo pdice nondum finie ejetit expulit & amovie Ideo tibi pcepimus qd pfar A. possession suam Termini sui pū adhuc ventur de & in pū tribus messuag & viginti quatuor acr terre cum ptiū (&c.) Habe fac Et qualie hoc h2d nrnd fueris execue Nobis apud Westm die, (c.) constare fac Et heas tbi tunc hoc h2d Teste (&c.)

K's Bench.

\* As in the Declarat.

† Ibid.

\* Ibid.

Thus I have shewn you the Form of several Writs of *Execution* after Verdict or Judgment.

Next I shall set down some other Writs and Proceſs, which you may often have occasion to make out, viz.



Attachments.

Attach Privileg'.

An Attachment of Priviledge for a Clerk of  
the *King's Bench*.

**W**Illus tertius (et.) Dic S. saltem  
Precipimus tibi qd attach A. B.  
C. D. E. F. G. H. I. K. L. M. N. O.  
Et. [ for you may put in a great many ] si  
invene fuerint in Ballia tua & eos salvo  
custodi ita qd heas corpora eorum coram  
nobis apud Westm die . . . . pr' post . . .  
ad respondendi A. B. Gen und Cllicoꝝum  
Rolandi Holt & Edm Colman capital Cli-  
coꝝum Costroꝝum ad placita in Cur nostra co-  
ram nobis irrotulandi assigni juxta Liber-  
tat & Privileg' p humod capital Clerico  
& ejus Clericis a tempore cujus contrarii  
memoria hominum non existit usitae &  
approbat in eadem de plito Calsg Et heas  
ibi tunc hoc hꝛe, Teste J. Holt, et.

An Attachment for an Attorney of the  
*King's Bench*.

Ad respondens C. E. Gen und Attoꝝum  
in Cur nra coram Nobis existend juxta  
libertatem & privileg' p humod Attoꝝum a  
tempore cujus contrarii (et. as before.)

Certiozari

Certiorari p oib? Querelis & oib?  
Attach.

**W**Illus tertius Dei Gra (tc.) Ma-  
jori (tc.) saltem Volentes certis de  
Causis Certiorari [tam] de oib? Querelis  
in Cui nra coram vobis seu aliquo vrm  
bera C. D. ad sextam N. B. lebae sive af-  
firmac [ qm de quibuscunq; Attach super  
Querel ill sive eoz aliqua in manib? C.  
& f. l)tc.) seu eoz alterius fac ] vobis  
& cuilibet vrm mandamus qd Querel  
pd [ ac attach pd & eoz quodlibet ] cum  
oib? ea [ sive eoz aliquod ] tange coram  
nobis apud Westm die (tc.) pr' post  
(tc.) adeo plene & integre prout coram  
vobis seu aliquo vrm resident mittatis  
unacum hoc bnd ut Alius inde fieri fac  
quod de Jure & secundum Regem  
Regni nostri Angl fore viderimus faciend  
Telle, tc.

Habeas Corpus retornable in Court.

**W**Illus (tc.) Majori Aldermannis  
(tc.) saltem precipimus vobis qd  
corpus C. D. in Prison nra sub custod vrm  
ut dicitur detene sub salvo & securi conduct  
unacum die & causa captionis & detentio-  
nis sue quocunq; noie idem C. censeat in  
eadem heatis coram nobis apud Westm  
die . . . . . pr' post . . . . . ad respon-  
dend N. B. de pito debi Ne ulterius ad  
fac & rec ea omnia & singula que Cur nra  
K 3 coram

K's-Bench

orāam nobis de eo adtunc & ibm cons in hac parte Et heatis, &c.

Upon Return of the *Habeas Corpus*, the Plaintiff may give a Rule for a *Procedendo*, except the Defendant put in Bail within 8 days, &c.

*Habeas Corpus* retornable immediate before the Chief Justice.

As before usq; — quocunq; noīe idem C. cenleati in eadem heatis corāam dilecto & fidel nro Johē Holt Mil Capital Justie nro ad Plita in Cur nra corāam nobis tenend assign apud Cameram suam situae in ( le Serjeants Inn in Chancery Lane ) immediate post recepcōd hujus bzis ad faciend & recipiend ea omnia & singula que idem Capitalis Justie noster de eo adtunc & ibm cons in hac parte Et heatis ibi tunc hoc bzis Teste, &c.

*Habeas Corpus* before one of the puisne Judges immediate.

Corāam M. B. Mil ud Justie nroꝝ ad plita in Cur nostra corāam nob tenend assign apud Cameram suam situae (&c.) immediate post recepcōd hujus bzis ad fac & rec, &c. ( as before. )

*Habeas*

## Habeas Corpus.

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K's Bench.

**Habeas Corpus in Wacarond retord at a**  
day certain.

**Habeatis coram (Ec.) die Lune quarto**  
**die Aprilis circa horam tertiam post me-**  
**rid ejuldem diei—ad fac & rec, &c. ( ut**  
**supra, )**

**Habeas Corpus ad plegnend.**

**Ad prosequend billam suam versus C.**  
**D. in placito debi put ill in Cui nostra**  
**coram nobis incepit Ut ulcius in hac**  
**parte procedere valeamus put de Jure**  
**fore viderimus pcedens Et heatis, &c.**

**Ad respondens.**

**Ad respondens N. B. de placito debiti**  
**( or de placito transgr, &c. as the Case is )**  
**Ut ulcius, as last before.**

**Ad satisfaciens.**

**Ad satisfaciens N. B. de 20 l. p Dam-**  
**pnis suis que sustinuit tam occone cujus-**  
**dam transgr eidem N. p pzfac C. nuper**  
**illac qnd p mis & custag suis, [Ec.] as in**  
**Ca Sa sicut nobis constat. de Recordo Ut**  
**ulterius, &c. ( as above. )**

## Habeas Corpus.

**Habeas Corpus** where languidus in  
Prisona was returned.

Willelmus (et.) saltem Precipimus tibi  
Quod corpus C. D. p te cape & in Prisona nra  
sub custod tua licet languidus detene sicut  
p retorn tuu [ or retorn R. f. nup Die  
Com pd ] in Cur nra coram nobis mis  
Pobis liquet manifeste heas coram nobis  
die (et.) ad respond [ or ad satisfaciend, et.  
as before ] A. B. de plito transgr [ or plito  
debi, et. mutatis mutandis ] Et habeas,  
(et.) ut in al.

**Habeas Corpus** upon Cepi Corp.

Precipimus tibi qd' Corpus C. D. p  
te cape & in Prisona nostra sub custod' tua  
detene put tu ipse p retorn tuu in Curia  
nra coram nobis als missu teipm onasti  
habeas coram nobis apud Westm — die  
— (et.) ad respond' A. B. de plito transgr  
Et heas, et.

The like to the Sheriff of Midd'r upon a  
Cepi returned.

Precepe est Die qd' corp C. D. p se cape  
& in Prisona Dni Regis sub custod' sua de-  
tent put p retorn suum in Cur Dni Regis  
coram ipso Rege alias mis se onabit heat  
coram Dno Rege apud Westm — die  
— (et.) Ad respondend' A. B. de placito  
transgr Et heat ibi tunc hoc precepe, et.

To



To remove an Action out of an Inferior <sup>K's-Bench</sup> Court into the *King's Bench*; you must know the Style or Title of the Inferiour Court; for which see in *Thesaurus Brevium*. The most usual Inferior Courts in or about *London*, are the *Marshals Court*, the direction whereof is *Judicibus Cui pallatii nostri Westm' & eoz' cuilibet saltm'*: The Sheriffs Courts of *London*, their Title is, *Majori Alderman & Vic London & eozum cuilibet saltm'*. The Court of *Stepney*, the Direction is, *Seneschallo Cui nostre de Record' in fra Maner de Stepney & Hackney in Com Midd'r Hamlet & Libertat eozundm necnon Capital halsio Prehonorabit Philadelphie Dnd Wentworth vid' Manerij sui de Stepney in Com Midd'r pdict' & eoz' cuilibet saltm'*. This Direction is double, for that there is a Goal for Defendants arrested in that Liberty by Writs out of Superiour Courts, as well as by Process out of the Court. The Court is commonly called *White Chappel Court*. When you have made your *Hab Corpus ad faciend' & recipiend'*, then upon a piece of Parchment cut like a little Bail-piece, which is called the *Fiat*, write thus for the *Marshals Court*.

Marshals Court.

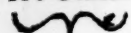
London

White Chappel.

Cui Pallat. Fiat h' de Hab <sup>A Fiat.</sup>  
Corpus p C. D. ad fac  
& rec rec immediate.

Pledwel }  
Attorn } }

And



# Proceedings upon Hab' Corpus.

And then make a Ticket in Paper,

**Cui Vale ff. Hab Corpus p**  
**C. D. ad fac & rec rec**  
 immediate.

And the same *Fiat* and Ticket for *London*, only put *London* in the Margent; and for *Stepney* Cui Vale ff. de *Stepney* in the Margent.

Then carry your **Habeas Corpus** with the *Fiat* and Note to Mr. *Bromfield* in the *King's-Bench* Office, who will Stamp the **Habeas Corpus** and return it to you, and keep the *Fiat* and Note: You must pay him 7 s. 8 d. in the Vacation, and 6 s. 8 d. in Term time. Note, the Parchment on which you write the **Habeas Corpus**, must be Stamped with a Five Shilling Stamp. Seal your **Hab Corpus** as you do other Writs, and carry it to the inferiour Court to be allowed: You must observe in those inferiour Courts, if the Debt be small they enter the Action 4 l. 19 s. The Reason of that is, That an Action under 5 l. originally was not to be removed, but tried there. But Industry hath found out an Expedient for that; for now if the Action be under 5 l. you bring another Action of 5 l. or above, at whole Suit you please against the same Defendant, and then the **Habeas Corpus** removes both Actions together. This **Habeas Corpus** may be delivered (immediately) before the Tryal. You pay 4 s. 10 d. for the Allowance, and sometimes more when there are many

many Causes to be returned, for all the Causes the Defendant stands charged with, must be returned with the **Habeas Corpus**. Some few days after the Delivery, call for the Return, and carry it with your Bail to a Judges Chamber, and there put in Special Bail, for which you pay 7 s. 4 d. Note, Altho' the Action removed, be never so small, you must put in Bail when 'tis removed, except it be against the Defendant as Executor or Administrator, for then no Special Bail is required above. Also the Plaintiffs Attorney may serve the Defendants Attorney with a Rule for a *Procedendo*, if Bail be not put in time; That is, in six days in the Vacation, and four in Term. The Clerk of the Rules gives the Rule, and if Bail be not put in, they make out a *Procedendo*, and carry back the Cause, and try it in the inferior Court: See the Writ of *Procedendo* herein after. Note, If your **Habeas Corpus** be directed to any of the said inferior Courts, or any other within five Miles of London, you make it returnable immediate; but if the Court be above five Miles distant, then the Return must be on a day certain. \* If the Defendant be actually a Prisoner in some of the Prisons belonging to these inferior Courts, the Difficulty will be greater, for he cannot be discharged out of Prison, till the Bail on the **Habeas Corpus** be accepted or justified in Court; and therefore in such a Case, the more ready and cheaper way is to put in Bail to the Action in the inferior Court, which will discharge the Defendant, and then

K's Bench

*Procedendo*

Ret' immediate.

\* Note.

**K's Bench.** then bring the **Habeas Corpus** to remove the Cause.

*Committitur.*

But if the Defendant cannot find Bail, and would be removed to the *King's-Bench* Prison, you must deliver the **Habeas Corpus**, and they will make you a Return, and send an Officer with the Defendant to a Judge's Chamber, and a *Committitur* must be writ in Parchment, and the Judges Tip-staff takes the Prisoner into his Custody, and charges him to the *King's-Bench* Prison; you pay 11 s. 8 d. at the Judge's Chamber, the Tip-staff will demand 10 s. for carrying the Defendant over, and you must agree with the Officer as cheap as you can, for bringing him to the Judge's Chamber.

*Newgate.*

If the Defendant be in the Custody of a Bailiff, or in *Newgate*, and would be turned over to the *King's-Bench*, the Practice is the same; you deliver a **Habeas Corpus** directed to the Sheriff of *Middlesex*, and he will search his Office, what Writ he hath against the Defendant, and make Return of them, and then the Officer or Keeper of *Newgate* will carry the Defendant to the Judge's Chamber, and he will be turned over before the Judge in manner aforesaid: You must take notice with what Writs the Defendant is charged; for if it should be only with a Common-Pleas Writ, then you cannot turn him over to the *King's-Bench*, without charging him with an Action out of the *King's-Bench*, so that you must make a Bill of *Middlesex*, or an Attachment of Priviledge returnable in the *King's-Bench*, and carry it to the

A new  
Writ to  
charge the  
Defendant.

Procedendo.

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the Sheriff, and he will charge the Defendant *K's Bench* in Custody, and return that Action with the other.

And the same Course is taken to remove a Prisoner from the *Fleet* to the *King's-Bench*, only the Warden of the *Fleet* will often stand out two *Habeas Corpus* at least, before he will part with his Prisoner. Note, before you deliver your *Habeas Corpus*, it is fit to speak to a Waiter, if the Defendant be in the *Fleet*, to carry him to the Judge's Chamber and agree with him, and also to provide a Tip-staff in readiness; and many do go to the Marshal and treat with him for Chamber-Rent, and sometimes for the Defendant's Liberty, upon Security before they carry him over.

Procedendo.

**W**Illus (Ec.) Majori Albiis & Die London saltem Licet vobis per h<sup>2</sup>d nostr<sup>2</sup>d nup p<sup>2</sup>cepimus q<sup>2</sup>d Corpus C. D. in Prisonsa nra sub custod' v<sup>2</sup>ra ut dicebatur detent sub salvo & secur<sup>2</sup> conduce unacum die & causa cap<sup>2</sup>con & detention<sup>2</sup> sue quocunq<sup>2</sup> no<sup>2</sup>ie idem C. cens<sup>2</sup>ear in eadem haberetis coram dilecto & fideli nostro Johe Holt Mil Capital Justic nostro ad Plura in Cur nra coram Rob tenend assign<sup>2</sup> apud Cameram suam situae in le Sergeants Inn in Chancery Lane [\* or coram M. B. Mil und Justic nr<sup>2</sup> ad plura in Cur nostra coram Rob tenend assign<sup>2</sup> apud Cameram suam situae (Ec.)] immediate



**K's Bench.** mediate post recepcōm istius h<sup>2</sup>s [ or habe-  
 retis coram vobis apud Westm die — &c.  
 as the Return was in Hab Corp ] ad faciendū  
 & recipiendū ea omnia & singula que idem  
 Justic noster [ or que Cur nostra coram  
 nobis ] de eo adtunc & ibm cons in ea  
 parte Tamen certis de causis nos jam in  
 Cur nra coram nob specialie movend vo-  
 bis & cuilibet vrm precipimus Qd in qui-  
 buscunq querelis sive lectis versus ipm  
 C. ad lectam A. B. in Cur nostra coram  
 vobis seu aliquo vrm lebat sive affirmat  
 vel coram vobis seu aliquo vestrum jam  
 penden indeterminat cum ea celeritate  
 qua poteritis talie procedatis qualie scdm  
 Legem & Cons Regni nri Angl [ vel  
 Civit nri London pd ] fore videritis pro-  
 cedend Brebi nro pd vobis inde prius di-  
 rect in contrarium in aliquo non obstant  
 Teste, &c. ( ut in al. )

\* This  
 Clause is to  
 be put in  
 when 'tis  
 in London.

### Procedend sup Certiozari.

**W**illius, &c. saltem Cum vob p brebe  
 nrm nup certis de causis Certioza-  
 ri volend de quadam Villa original, &c.  
 [ reciting the Certiozari in such manner as  
 the Habeas Corpus is before recited ] co-  
 ram nobis die — (&c.) unacum h<sup>2</sup>d illo Ac-  
 ulcius inde fieri faceremus prout de jure  
 fore viderimus faciend Tamen certis de  
 causis nos jam in Cur nra coram nobis  
 movend vobis & cuilibet vrm precipimus  
 qd tmd in Querel pd vers pfac C. in Cur  
 nra coram vobis seu aliquo vrm lebat ad  
 lectam

secundam pd' A. qm̄ in Attachmene super- inde face in manib? & custod E. f. cū ea celeritate qua poteritis talie procedatis qualie scdm Legem & Consuetudinem Ci- vilitatis nr̄ pd' fore videritis procedend' (Bz) nostro de Certiorari pdict' vobis prius in- de; in contrar' direct' in aliquo non obstant' Teste, &c.

Procedend' sup Bz de Latitat.

**W**illius (Ec.) Die London' saltem Cum Die nr̄o Mich' nup pcepim' qd' caperet C. D. si invene fuisset in balliva sua & eum salvo custod' ita qd' heret cor- pus ejus coram nobis apud Westm' die \* — (Ec.) ad respondend' A. B. de placito transge [or as the Cause of Action was in the Latitat] dñs; Die nr̄ Mich' ad diem ill' nob' retorn' qd' pdice C. non fuit invene in balliva sua super quo ex parte pd' A. in Cur' nr̄a coram nobis sufficienter testatum fuerit qd' pd' C. Latit' & dis- curr' in civitate nr̄ London' [or the County to which the Latitat was directed] Nobisq; supinde nup pcepimus qd' capetis eū si invene fuisset in balliva vr̄a & eum salvo custod' ita qd' haberetis corpus ejus coram nobis apud Westm' die \* . . . . . p'or' \* . . . . . ad respond' p'fat' A. de p'rito pd' Jamq; in eadem Curia nr̄a co- ram nob' ex parte B. A. accepimus qd' vos in quadam querel' inc' ipm̄ B. & pd' C. in Cur' nr̄a coram vobis p'fat' Die pendend' in- determinat' procedere occasione dice bzis nr̄ distu.

\* Note, 'tis commonly said ad cer- tum diem tunc præ- terit' ad respondend' (Ec.)

\* As in the Lat.

K's Bench.

diffulistis & adhuc differtis in ipsius H.  
 grade dampnum Et nos in hac parte fieri  
 volend quod est iustum vob p̄cipimus qd  
 in quibuscung; Querelis verlus ipm̄ C. ad  
 sectam p̄d' H. L. coram vobis seu aliquo  
 brm̄ affirmat & coram vobis seu aliquo  
 brm̄ jam pendend indeterminat cum ea  
 celeritate qua poteritis talie procedatis  
 qualie sed'm Legem & Consuetud' civie  
 nr̄ London' fore videritis procedend' (bze-  
 vi nr̄o p̄d' vobis p̄ius inde nup directe in  
 aliquo non obstante) Teste, &c.

Scire facias in Debo post annum &  
 diem.

**W**illius, &c. Die Hidd'r saltem Cum  
 A. B. Gen nup in Cur' nr̄a coram  
 Nob apud Westm̄ p bill sine bzd nr̄o ac p  
 Iudic ejusdem Cur' recuperavit vers' C. D.  
 Gen als dice' (&c.) ducenē Libras de De-  
 bo necnon tres Libr' p dampnis suis que  
 sustinuit tam occōne detentōnis Debiti il-  
 lius qm̄ p mis & custag' suis p ipm̄ circa  
 Sextam suam in ea parte appōit unde  
 idem C. D. convicte est sicut nob constat de  
 Recordo Jamq; ex parte p̄d' A. in Cur' nr̄a  
 coram nob accepimus Quod licet Iudiciū  
 inde reddit' sit Execuō tamen de debito &  
 dampnis p̄d' sibi adhuc restat faciend'  
 Unde nob' supplicabit idem A. sibi de re-  
 medio congruo in hac parte provideri Et  
 nos in hac parte fieri volentes quod est  
 Iustum Tibi p̄cipimus qd' p probos &  
 legales

legles hoies de balliva tua Scire fac \* K's Bench.  
 p̄lar C. D. Nō sit coram Nobis apud Westm die. . . . . prox' post . . . . .  
 ad ostend' siquid p̄ se heat vel dicere sciat  
 quare p̄d' N. Execucon suam de debo & (then say  
 dampn p̄d' juxta vim formam & effectum as before  
 Recuperacon p̄d' versus eum habere non usq;) Tibi  
 debet. Et habeas ibi noia eorum per quos precipimus  
 ei Scire fac & hoc Breve Teste J. Holt, qd' per pro.  
 (Et.) Holt & Colman. bos & le  
 gales homi-  
 nes de balli-  
 via tua Scire fac' tenen' omnium terrar' & tenor' que fuer' pred. C. die--  
 prox' post — Ann. regni nostri nono quo die Judic. predict. reddit.  
 fuit vel unquam postea in balliva tua qd. sint coram Nob. apud Westm.  
 die — prox. post — ad ostend. (Et.) quare deb' m & dampna pred.  
 de Terris & Ten'tis ill. fier. & p̄sarat. A. reddi non debeant juxta viti  
 formam & effect. recuperat. pred. si (Et.) Et ult'ius ad fac. & rec. quod.  
 Cur. nostra coram nob. de eis adunc & ibid. cons. in hac parte Et ha-  
 beas, &c. (as in others.)

Note, That if no Execution be taken upon a Judgment against the Defendant within a year and a day, there a *Scire fac'* must be sued out to renew it.

If the Defendant appears to this Writ, and can shew good cause, as a Release, Satisfaction, or any other just Cause, he may plead it in Discharge.

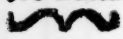
If the Sheriff return *Scire feci*, and if the Defendant upon the Return of the said *Scire fec.* do not forthwith appear and plead after a Rule given, the Plaintiff shall have present Execution.

But if the Sheriff Return a *Nihil habet* upon the *Scire fac'*, you must give him an *Alias Scire fac'*, and get it returned in the same manner.

L

And

K's Bench.

 And when you have two *Nichils* returned, it amounts to a *Scire feci*, and the Plaintiff may (after he hath given a Rule on the *alias Scire facias*, which is for four days) enter up Judgment of Course, and sue out what Execution he pleaseth.

Note also, the Writ of *Scire fac'* after a year and a day may be had of course against the Defendant without Motion, unless the Judgment be above ten years old, upon which no Execution hath been taken out. And if so, the Plaintiff must move the Court to obtain a Rule of Court for a *Scire Facias*, before he can be able to make out such Writ.

Entry of two *Scire Fac'* with two *Nichils* returned and Judgment by Default.

**D**ominus Rex mand Vic London h'd  
suo c'm in hec verba ff. Willus ter-  
tius Dei gra, &c. (reciting the Writ of *Scire*  
*fac* verbatim usq;) C. J. Holt Hil apud  
Westm 16 die Junij Ann Regni 10 Ad  
quem diem coram Dño Rege apud Westm  
ven' p'ed' (quer') in propr p'sona sua Et  
Die L. vidit N. B. Hil & C. D. Hil ad  
diem ill' retorn' qd' p'd' (Def.) Nichil habet  
in B'k'ia sua ubi aut per quod ei *Sci-*  
*re fac* potuer' nec est invene in eadem.  
Et p'd' (Def.) non venit Jo sicut als p'ce-  
repe est Vic London qd' per p'obos, &c.  
*Scire fac* p'efac (Def.) qd' sit coram dice  
Dño Rege apud Westm die M'cur' p'r'  
post



post tres Sepe Sed Trin ad ostend' in R's Bench.  
 forma pd' si, &c. Et ulterius, &c. Idem dies  
 dat est pfae (quer) ibidem, &c. Ad quem  
 diem coram dicto Dño Rege apud Westm  
 pd' veni pdice (quer) in propi person sua  
 Et pdice Dic London pdice ut prius re-  
 tornd qd' pd' (Def.) Nichil habet in Bal-  
 lia sua ubi aut per quod ei Scire facere  
 potuer nec est invene in eadem Et pdice  
 (Def.) ad eund' diem sollempnie exace non  
 venit sed defale fec Jo cons est qd' pdice  
 H. heat Executon versus eum de debo &  
 dampn pdice juxta vim formam & effectum  
 Recupacon pdice, &c.

Entry of *Scire fac'* against Executors after  
 two *Nichils* returned, Defendant appears  
 by Attorney and pleads *Null tiel Record*.

**D**ominus Rex mand', &c. (as before  
 to the end of the Return of the second  
*Scire fac'*, viz.) Et pdice Dic M. pdice ut  
 prius Retornd qd' pd' B. Nichil het in  
 Ballia sua ubi aut per quod Scire facere  
 potuit nec est invene in eadem Et pdice  
 B. ad eund' diem sollempnie exace per J.  
 S. Atc sunt similiter veni Et super hoc po  
 E. ut prius pec Executon versus pfae  
 B. de debo & dampn pdice sibi adjudica-  
 ri, &c. Et pdicet B. dic qd' pdice E. Ex-  
 ecuton suam versus eum de debo & dampn  
 pd' here non debet Quia dic qd' non here  
 aliquod tle Record Recupacon debi &  
 dampnozum pdice qual p brebe pdice su-  
 perius

Placitum.

**R's Bench.** perius supponitur. Et hoc parat est ver-  
 ficare Unde per Iudic si pdice E. Execu-  
 tion suam verlus eum de debo & dampn  
 pd' here debeat, &c.

**Repl.**

Et pd' E. dic qd' ipse per aliqua per  
 pdice B. superius placitando allegat ab  
 Execuc sua verlus eum de debo & dampn  
 pd' habend' precludi non debet Quia dic  
 qd' het tle Recordu Recupaconi debiti &  
 dampn pdice quale p Breve pd' superius  
 supponit prout patet Termino . . . . .  
 And Reg Dni Willi terti nunc Regis  
 Angl . . . . . Rotlo . . . . . Et hoc pa-  
 rat est verificare p Record' illud Et per  
 quod Terminu & Rotuli illi per Cur'  
 Dni Regis hic videant & inspiciant Et  
 quia Cur' dicti Dni Regis nunc hic de  
 Iudicio suo de & super premis reddend'  
 nondum adbilat Dies inde dat est par-  
 tibus predict coram Domino Rege apud  
 W. usque diem . . . . . prox' post . . . . .  
 de Iudicio suo de Erie illi audiend' Co  
 qd' Cur' dicti Dni Regis hic inde nondum,  
 &c.

Executo p Defale sur Scire feci, upon a  
 Scire fac post Annum & Diem.

**D**ominus Rex mand', &c. (reciting the  
 Writ as before) Ad quem diem co-  
 ram Dom Rege apud Westm veni pred'  
 (quer, in propr person sua Et Dic E. vi-  
 det A. B. Ar' ad diem illi rer qd' ipse  
 virrute

virtute huius p[re]dicti sibi direct[us] Scire fecit p[re]s[ent]at (Def.) per D. C. & F. G. probos & legales homines de Ballia sua q[uo]d sit coram D[omi]no Rege ad diem & locum p[re]dict[us] ad ostend[um], &c. p[ro]ut interius sibi p[re]cepte fuit Et p[re]dict[us] (Def.) sic p[re]munie & ad eundem diem solemniter exact non veni sed defale fecit It[em] cons[idera]t est Quod p[re]dict[us] Quer[er] heat Ex[ec]ucio[n]i ver[su]s eum de debito & Dampno p[re]dict[us] iuxta vim formam & effectum Recuperac[i]o[n]is p[re]dict[us], &c.

K's Bench.  
W

Note, If one do not proceed upon a *Scire fac'* within a year and a day after it was taken out, he cannot after that proceed upon that Writ, but must sue out a new *Scire fac'* (for the old Writ is discontinued) and it ought to be directed into the County where the Original Action was brought.

If one sue out two Writs of *Scire fac'* one after the other upon the same Judgment, there ought to be eight days distant between the Teste and Return of each *Scire fac'*; otherwise the Court may quash them upon a Motion, or the Defendant may demur thereunto, *Stiles Pract. Reg.* 497.

Where either Plaintiff or Defendant, or one of the Plaintiff's, or one of the Defendants die, there cannot be any Execution sued out upon the Judgment, until a *Scire fac'* sued out, and Judgment thereupon, *idem* 499.

Where Bail are put into an Action brought in this Court, the *Scire fac'* against them must be always sued out into *Middlesex*, be-

K's Bench. cause all Bails to Actions are supposed to be taken in Court, which is in *Middlesex*.

But in case of a Recognizance entred into by Bail upon a Writ of *Error*; if it be Entred to be taken at a Judge's Chamber in *London*, then the *Scire fac'* must be there sued out, *Stiles Pract. Reg.* 499.

There must also be eight days exclusive between the *Teste* and Retorn of each *Scire facias* against Bail, and not one of them four or five days, and the other twelve, &c. *Idem* 500.

And note, That before a *Scire fac'* issues to the Bail, there ought to be a *Cap. ad satisfaciend'* against the principal Defendant, and a *Non est inventus* Returned upon it.

Also there must be eight Days exclusive betwixt the *Teste* and Retorn of every *Capias ad satisfaciend'* to warrant a *Scire facias* against Bail, and the *Capias* ought to be delivered to the Sheriff \* four Days before the Retorn be out. *Id. ibid.*

*Vide Compleat Solicitor and Attorney.*

\* Note, Mr. *Vidian's* Introduction says, It must be retornable fifteen days after the *Teste*, and to be delivered eight days before the Retorn.

After the Retorn of it by *Non est inventus*, you make out the *Scire fac.*

Note, It's said, That if the Defendant does not render himself upon the day of the Retorn of the second *Scire fac'*, he can never do it after. And you give a Rule of Course with the Clerk of the Rules upon the second *Scire fac.* and if the Defendant do not plead, you

## Scire Facias.

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you make Execution against the Bail, and Enter the Judgment on the Roll. K's Bench.

Where Note, you must enter the first *Scire fac.* on the Roll of that Term, when the first *Scire fac.* is retornable, and so award your other *Scire fac.* on the same Roll, and continue the Proceedings and Pleadings, if any, till Judgment be entered all on the same Roll; and if the Plaintiff please, he may levy part of the Debt upon the Defendant's Goods first, and after resort back to the Bail for the residue: But if he take the Defendant's Body in Execution, he cannot meddle with the Bail at all. *Vide postea.*

### Scd Fac in Case on Assumpsit.

Willus (Et.) Vic S. saltem Cum A.B. nup in Cur nra coram Nob apud Westm  
\* p Willam sine h'd nro ac per Iudiciu e-  
iusdem Cur recuperabit vers' C. D. 20 l.  
p damnis suis que sustinuit tm occasione  
non performaco' quarundm pmissio' &  
assumpco' p ipm C. eidem A. nuper face  
qm p mis' & custag' suis p ipm circa se-  
ram suam in ea parte appoie unde (Et.  
as before. )

\* If the Recovery be by Original, then  
say, per h'd nrm recuperabit, (Et.)

### Scd Fac in Cnsgt sur Case.

Willus ( Et. as before usq ) recuperabit  
versus C. D. 20 l. p damnis suis que su-  
stid tm octone cujusdam Cnsgt sup Ca-  
sum



K's Bench.

**W**illm p ipsum C. eidem A. nuper illae qm  
p mis (Ec. as before. )

**Sed fac in Cūlgr.**

Willus (Ec. ut antea usq) recupabit s.  
sus C. D. 201. p dampnis suis que susti-  
puit tm occasione cujusdam Cūlgr p eund C.  
eidem A. nuper facit qm p mis, Ec.

**Sed fac vers Manucapē in Debo.**

Willus (Ec.) Dic S. scilicet Cum A. B.  
nuper in Cur nra coram nob apud Westm  
p Willam sine hnd nro (Ec. as in Debt usq)  
sicut nob' constat de Recordo Ac licet Ju-  
diciū inde redditū sit Executio tamen de  
debo & dampnis pdict sibi adhuc restat  
faciend Cumq C. f. de (Ec.) gen & S. B.  
de eod Arm als scit Ceterū Sed Michis  
Anno Regni nri nono in ead Cur. nra co-  
ram nob' apud Westm personalie ven &  
deben pleg & Manucapē & usq; eoz p se  
deben pleg & Manucapē p pd C. D. qd si  
conting pdict C. D. in plito pdice convinci  
tunc iidem Manucapē concesser & uterq;  
eorum p se concessit tm debitum pdice qm  
omnia humod dampna mis & custag' que  
pfar A. B. in ea parte adjudicarente de  
terris & catallis suis & eoz utriusq; fieri  
& ad opus & usum ipsius A. B. levati si  
contingeret pd C. D. debm & dampna  
mis & custag' ill pfar A. B. mid solvere  
aut se p'isione Mare Marese nra coram  
nob' ea occasione non reddere pdice tamen  
C. D.

**C. D.** debitū & dampnū mis & custag' p'd' K's Bench.  
 p'fac **A. B.** nondum solvit nec ipm Prilone  
 Marē Mareſce nrd coram Nob reddidit  
 put ex insinuatione p'dice **A. B.** in Cur  
 nra coram Nob' accepimus Unde nobis  
 supplicabit idem **A. B.** sibi de remedio  
 congruo in hac parte provideri Et nos in  
 hac parte fieri volēd quod est iustum Tibi  
 p'cipimus qd p p'bos & legales hoies de bal-  
 lia tua Scd fac p'fac **C. f. & G. H.** qd sint  
 coram Nob apud Westm—die—p'or'  
 post—Ad ostend si quid p se habeant  
 vel dicere sciant quare p'dice **A. B.** execu-  
 con suam versus eos de debito & dampnū  
 p'edict' habe non debeat juxta vim form  
 & effectum Recognō p'dice si tibi viderit ex-  
 pediri Et ultius factū & recept ea omnia  
 & singula que eadem Cur nra coram No-  
 bis de eis adtunc & ibidem considerabit in  
 hac parte Et heas ibi noia eorum p quos  
 eis Scd fec Et hoc h'ed Teste (Et.)

Before you make out **Scd fac** against the  
 Bail, see that the Declaration be entred  
 upon the Rolls at *Westminster* of the  
 same Term the Declaration was of; and  
 after the Declaration is entred *verbatim*,  
 you must enter up the Recognizance  
 against the Bail thus (*viz.*)

Et super hoc **A. B. C. D.** (naming the  
 Bail with their Additions) veniunt in Cur  
 Dni Regis coram ipō Rege apud Westm  
 in p'p'is personis suis & debent pleg' &  
 manucapē & uterq; eorum debent pleg'  
 &

K's Bench.

**E** manucepe p̄ p̄dice Def. qđ si contingat eundem Def. in p̄lito p̄dice convinci tunc iidem Manucepe concessit & uterq; eorum concessit tam debite p̄dice quam omnia humod dampna que p̄lat Quer' in hac parte adjudicent de terris & catallis suis & eorū utriusq; fieri & ad opus p̄d Quer' levari si contingat eundem Def. debitum & dampna p̄dice p̄lat Quer' mīd solvere aut se p̄sone Mar' Marese Dñe Regis coram ipso Rege ea octone non reddere.

Some enter this Recognizance with an Impar lance, which ought to be but in some special Case; for Bail may be given after an Issue joyned.

Note, The Master of the Office will give leave for the Filing of the Declaration and Recognizance, after Judgment is had against the Defendant. When this is done, and before you make out a *Scire fac'*, a *Capias* must be sued out to warrant the *Scire fac'*, and there must be 8 days between the *Teste* and the Return, and it must lie 4 days with the Sheriff before it be returnable.

And there must be 15 days between the *Teste* of the first *Scire fac'*, and the Return of the second *Scire fac'*.

After Judgment upon the *Scire fac'*, you must make out a *Fieri fac'*, and upon *Nulla bona* returned, a *Capias* against the Bail may be sued out.

There is a dispute, when the Bail may render the Defendant for their discharge: Some say after the Return of the first *Scire fac'*

## Scire Facias.

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*fac'* against them it is too late: Others say, any time before the Return of the second *Scire fac'*. But it is not convenient to bring this in dispute. K's Bench.

The Recognizances taken in the *Common-Pleas* upon Arrests, are entred by the Philiziers, and the other Recognizances are entred by the Prothonotaries.

See for Pleas for Bail to the *Sci. fac.* at the end of the Issues.

### *Scire fac'* in Case against the Bail.

*Willus* (Ec.) *Cum* A. B. nup in *Cur nra* (ut supra) recuperabit *Slus* C. D. centum libi p dampn suis que sustinuit tam octone non pformato cujusdam pmissionis & assumpton eid A. per plac C. nup facit qm p mis & custag suis p ipm circa secta suam (Ec. as in Debt usq;) constat de Recordo Ac licet (Ec.) *Cumq;* (Ec. as before usq;) uterq; eorum concessi omnia humod dampna mis & custag que, (Ec. as before) to the end, only instead of debm dampn mis & custag, you only say dampn mis & custag, and where 'tis debitm & dampn pdice, you only say dampn pd.

*Sci fac* *Slus* Executor sup *Judic* recuperat in vita Testator.

*Willus* (Ec.) *Dic* B. saltem *Cum* A. B. nuper in *Cur nra* (Ec. as before) sicut *Pos* constat de Recordo posteaq; scit — *die* — *Anno* (Ec. —) pdice C. apud D. in *Com*

K's Bench.

**Com** tuo condidit testamentū & ule volun-  
 tas sua in scriptis & constituit E. f. Cre-  
 cutozem Tēsti sui p̄dice Postea; ibidem  
 obiit post cuius mortem p̄dice E. f. onus  
 Execucon Tēsti sui p̄dice sup se suscepit  
 ac Tēstum illud debita Juris forma pro-  
 habuit ac jam ex parte p̄dice A. in Cur nra  
 coram Nob accepimus qđ licet Judiciū  
 inde redditū sit Execuco tamen de debito  
 & dampnū p̄dice sibi adhuc restat faciens  
 Unde Nobis supplicabit idem A. sibi de  
 remedio suo in hac parte p̄bideri Et  
 Nos in hac parte fieri volēd quod est ju-  
 stum tibi p̄cipimus qđ per p̄bos (Ec.)  
 Scire fac p̄fac E. f. qđ sit coram Nobis  
 die (Ec.) ad ostendū si quid p se heat vel  
 dicere sciat quare p̄dice A. Execucon sua  
 de bonis & catallis que fuer p̄dice E. D.  
 tempore mortis sue in manibus suis ad-  
 ministrandū here non debeat juxta vim for-  
 mam & effectum Recuperacon p̄dice si sibi  
 (Ec.) ulcius ad factū (Ec.) Et heas (Ec.)  
 (ut in al.)

**Sed fac** Illus Adm l̄r Judic recupae  
 versus Intestae.

Willus (Ec. as before usq;) sicut Nobis  
 constat de Recor̄do postea; scit die —  
 (Ec.) p̄dice E. apud D. in Com tuo obiit  
 intestae Post cuius mortem Administra-  
 con omniū & singulorū bonorū & catalloꝝ  
 juriū & creditorū que fuer p̄dice E. tem-  
 pore mortis sue p — cui commissio Admi-  
 nistracon p̄dice in hac parte de Jure per-  
 tinuit



## Supersedeas.

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finuit cuidam C. D. Viti — die \* — Anno  
 rñd nrd — apud — pñce deb juris forma  
 commiss fuit Ne jam ex parte ( &c. as last  
 before to the end. )

K's Bench.

\* There is  
 no need to  
 mention  
 the Day or  
 Year.

Note, If the Judgment were had against  
 Executor or Administrator, then the  
 Judgment must be entred thus :

— de bonis & catallis que fuer pñce  
 Testat (vel Intest) in manibus pñ Execu-  
 tor (vel Administrator) administrans si tan-  
 tum in manibus suis heat & si tantum in  
 manibus suis non heat tunc dampna pñce  
 de bonis & catallis ipsius ( Executor vel  
 Administrator) pñis administrans ( &c. )

## Of Supersedeas.

**I**F a Man be committed to the Custody of  
 of the Marshal of the *King's-Bench*, and no  
 Declaration be Filed within three Terms af-  
 ter, and a Certificate thereof, and of the Cause  
 of Actions wherein he stands Charged, then  
 a Judge of the *King's-Bench* will order a  
 Common-Bail to be Filed, and upon a Cer-  
 tificate thereof the Marshal will discharge  
 him without a *Supersedeas*.

But if a Man be committed to the *Fleet*,  
 upon a Certificate of the Causes he stands  
 charged with, and no Declaration against  
 him within three Terms, then a Judge of  
 the *Common-Pleas* will order a *Supersedeas* :  
 But when the Def. is charged with the Decla-  
 ration, he must plead to the Declaration, and  
 Nonsuit

Non suit the Plaintiff, before he can be discharged.

Note, The Marshal of the *King's Bench* will discharge Prisoners, if they be not charged in Execution after a certain time; but there is no Rule for it.

**Supersedeas pro unō Clerico capitali Clerici.**

**W**ILLIUS (sc.) Majori Aldermannis & Vic nra Lond salutem Cum tam ex dignitate nra Regia quam ex Consuetudine antiqua scdm eandem retroactē temporibus usitat & approbat hucusq; fuerit obtent qd omnes & singuli capitali Clerici nra ad p̄lita

A *Supersedeas* is a Writ to Command or Request the Parties to whom 'tis directed, to stay or forbear the doing of that which in appearance of Law might be done, were it not for the Cause whereupon the Writ is granted.

in Cur nra coram nobis irrotuland assign corum Clerici p tempore existend alibi qm in Cur nra coram nob ad respondend coram aliquibus Judicibus secular super aliquibus p̄litis seu querel (p̄litis de libero ten-

to duntaxat excepe) trahi seu compelli non debeant nec a toto tempore sup̄dice consuever Jamq; ex parte R. G. gen unō Clericorum R. H. qm capitali Clerici nra ad p̄lita in Cur nra coram Nob accepimus Qd dignitat & consuetud p̄dice non obstant quidam malevoli dignitat & consuetud p̄dice parvi pendend p̄s R. G. in Cur nra coram vobis p̄textu diversā Querel coram vobis verā

versus eundem R. levare traxerit in plitum In <sup>Ks' Bench.</sup>  
 dignitate nra & cons pñ lesionem & ener-  
 bationem manifest' ac ejusdem R. dispen-  
 diu non modicu & gravamen Qd si per-  
 mittitur aliis imposteru cederet in exem-  
 plum perniciosum Vobis igitur pcepimus  
 firmit' injungens qd de ulterius proce-  
 dens coram Vobis seu aliquo Vestrum  
 in Querel pñce seu aliqua earundem Su-  
 perfed & quilibet Vrm superfed omio di-  
 centes partibus in eisdem Querelis coram  
 Vobis in forma pñce psequens Qd ad  
 Curiam nostram coram Nob accedant Ju-  
 stitiam ibm in ea parte consecue si sibi  
 viderit expedire Teste (R.)

## Superfedeas sup Latitat.

Willus tertius Dei gra (R.) Die  
 Somis saltem Cum tibi nup pcepimus qd  
 capes A. B. si indene fuisset in Ballia tua  
 & eum salvo custod ita qd haberes corpus  
 ejus coram Nob apud Westm die (R.)  
 ad respondend C. D. de pñto tñsgr Quia  
 tamen idem A. B. jam in Cur nra coram  
 Nobis comparuit & imposuit Ballium ad  
 respondend pñce C. D. de pñto pñce No  
 vob pcepimus pñ de capiend arrestand  
 imprisonand pñce A. B. octone pñ Su-  
 perfed omnino Et si ipm A. B. ea octone  
 & non alia ceperis & in Prisona detid tunc  
 ipm a Prisona qua sic occasione illi si ea  
 octone & non alia detinetur sine dilatione  
 delibari fac periculo incumbend Teste  
 (R.)

Super-

**Superfedeas sur Habeas Corpus post  
Procedendo.**

Nullus (et.) Majori Alderman & Die  
London saltem Licet Vobis p h2d nrd  
nuper pcepimus qd corpus M. B. in p2iso-  
na nra sub custodi vrad ut dicitur detene sub  
salvo & securi conduce unacum die & causa  
captionis & detentionis sue quocumq nois  
idem M. censeretur in eadem haberetis  
coram dilecte & fidei nro C. D. Mil und  
Justie nro4 ad p2ita in Cur nra coram  
Vob tenend assigni apud hospitiu suu in  
Serjeants-Inn in Fleetstreet, London, immediate  
post receptum h2is ill ad faciend & recipi-  
end ea omnia & singula que idem Justie  
nr de eo adtunc & ibm cons in ea parte  
Licetq; certis de causis Nos in Cur nra  
coram Vob specialie movend vobis & cui-  
libet vrm nuper pcepimus qd in quibus-  
cumq Querel vers ipm M. ad lectam C. f.  
in Cur vrad coram Vobis seu aliquo vrm  
lebac sive affirmac jam pendend indeter-  
minac cum ea celeritate qua poteritis ta-  
lie pcederitis qualie scdm legem & cons  
Regni nrd Angl & Civie nrd London fore  
videritis Procedend (h2d nro pdice de ha-  
bendi corpus vobis prius inde in contrari  
direce in aliquo non obstant) Et quia p2  
h2ebe de Procedend improbide emanabit  
Et quia idem M. in Cur nra coram Vob  
inbend sufficiend Manucepe ad respondend  
pdice C. f. in Querela pdice No p2cipimus  
qd de omni ulcozi psecutione in querela p2  
Virtute

## Declarations.

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**Wirtute hris p̄dict de Procedendo omnino K's Bench.**  
**superfeso periculo incumbens Teste (Et.)** ~

Note, If the Defendant appear by *Superfedeas* (as he may without Bail \*, tho' the \* *Quere.*  
 Action be 500 l.) then he enters an Appearance with the Philazer, and you declare against him as by Original, *A. B. nuper de C. in Com p̄dice* attach, *Et.* and the Defendant's Attorney pays the Plaintiff's Attorney 4 *d.* per Sheet, and 4 *d.* for every Sheet of the Issue; and all the Writs and Executions are Returnable *ubicunque, Et.*

See Mr. *Vidian's* Introduction.

See more of Appearing by *Superfedeas* in *Solicitor and Attorney, &c.*

## Of Declarations.

Declaration upon a Bond.

Which septimo Will tertij Regis.

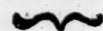
*Wids ff.* **A.** *B. queritur de C. D. Als \** \* Note, the  
*dict C. D. de Paroch Sed Alias dicit*  
*Clementis Dacoꝝ in Com Wids Gen* ought to be  
*in custodi Wari (Et.) de p̄lito qd reddat ei* *literatim,*  
*centum libras legalis monete Angl quas* as in the  
*ei debet & iniuste detinet p eo videt* *Bond, as*  
*cum p̄ C. p̄mo die Junij Anno Regni* near as  
*Dñi Willi tertij nunc Regis Angl, Et.* may be re-  
*septimo apud p̄ Paroch Sed Clementis* ferbled by  
*Dacoꝝ in Com p̄ p quoddam Scriptum* the Court-  
*suum obligatoꝝ sigillo ipsius C. sigillae* hand.  
*Curq; dict Dñi Regis nunc hic offens cu-*  
*jus dæ est eisdem die & anno cogn se te-*

M

next



K's Bench.



plac N. in pdice centum libris solvend eide-  
dem N. cum inde requisie esset pcur tamen  
C. licet sepius requisie Et. pdice centum  
libras plac N. nondum solvit sed ille ei  
hucusq solvere omnino contradixit & ad-  
huc contradicit Ad dampn ipsius N. vi-  
ginti librar. Et inde pduc sextam (Et.)

Pleadwell p Quer

Cunningham p Def.

} Pleg, Et.

Note, That when the Plaintiff hath De-  
clared, if his Clerk do not call for an An-  
swer, nor Enter the Action within three  
Terms after the Appearance of the Defen-  
dant, the Plaintiff may be Nonsuited, and  
the Defendant recover Costs against him.

Note, He must deliver the Defendant's  
Attorney a Copy of the Declaration before  
the Effoyn-day of the second Term, else the  
Defendant is not obliged to plead till the  
third Term. Then the Plaintiff's Attorney  
must get the Secondary to give two Rules  
for Answer, which must be entred with the  
Clerk of the Rules, each four Days. And  
when the Defendant hath pleaded, if it be  
a General Issue, the Plaintiff's Attorney may  
give Notice of Tryal in *London* or *Middlesex*,  
eight days before the day of the Tryal, if  
the Defendant live within 40 Miles of *Lon-*  
*don*; but if more, then Fourteen days. The  
like Notice must be given of executing a  
Writ of *Inquiry of Damages*.

8 Days.

14 Days.

Declara-

## Declaracion upon a Bill Penal.

Lond. ff. **A** B. queritur de C. D. Alias  
 dice (Et.) in custodi Mart, &c.  
 de plito qd reddat ei 20 l. legalis Monete  
 Angl quas ei debet & injuste detinet p eo  
 videlt qd cum pdice C. (such a day in such  
 a year) apud Paroch bre Marie de Arcub<sup>9</sup>  
 in Warda de Cheap per quandam Billam  
 suam Obligatoriam sigillo ipsius C. sigil-  
 lac Curq; dice Dñi Regis nunc hic ostens<sup>9</sup>  
 cujus dac est eisdem die & anno cogd se  
 debere pfac A. 10 l. solvend eidem A. in &  
 sup primum diem Maij tunc pr' sequend  
 post dac ejusdem Bille Et ad eand solu-  
 tionem bene & fidelie facend idem C. obli-  
 gabit se Heredes Executores & Admini-  
 strae suos in pdice 20 l. firmie per eand  
 Billam Et pd A. in factō dicit qd pdice C.  
 non solvit eidem A. p<sup>9</sup> 10 l. in & super p<sup>9</sup>  
 primū diem Maij quas ei in & super eun-  
 dem diem solvisse debuit secundum formā &  
 effem Bille pdice per quod Acto accrebit  
 eidem A. ad erigend & hend de pfac C. p<sup>9</sup>  
 20 l. pdeus tamen C. licet sepius requi-  
 sit, Et. pdice 20 l. pfac A. nondum solvit sed  
 ill ei hucusq; solvere omnino contradixit &  
 adhuc contradic Ad dampnū ipsius A. 20 l.  
 Et inde pduc lectam (Et.)

If it be upon a Bill without Penalty then  
 say (as last before usq;) apud Paroch ( Et. )  
 p quandam Billam suam Obligatoriam  
 sigilla ipsius C. sigillae Curq; dice Dñi

Regis nunc hic ostens cujus dæ est eisdem die & anno cogn se debere p̄fac A. p̄d 201. solvend eidem A. Executoribus Admini- stratoribus vel Assigni suis Ad vel super primum diem Maii tunc pr' sequend dæ Bill Obligatorie p̄dice Et ad eandem solu- tionem bene & veracie fore faciend p̄d C. obligabit se Hered Executori & Admini- strac suos firmie per eand Billam p̄dice tamen C. licet sepius requisit (Et, as before to the end.)

Declaration in Case sur Assumpsit for  
Goods Sold.

Lond. ff. **A**. B. queritur de C. D. in cu-  
stod Mari ( &c. ) p eo videlt  
qd cum p̄d A. ( such day and a year ) apud  
( &c. ) ad spial instanc & requisicon p̄d C.  
vendidit & deliberabit eidem C. ad opus  
& usum ipsius C. p̄p̄ [such  
and such Goods, naming  
them] ad ratam & precium  
( so much ) legalis monete  
Angl — p̄dice C. ad tunc &  
ibid scit ( the aforesaid such  
a day and year ) apud ( &c. )  
in consideracone inde super

Note, If the Goods were  
sold by the Pound or hundred,  
&c. [ *ad ratam & prec' 20 s.  
pro qualibet libra (or centena)  
inde in toto se attingen' se-  
cundum rat. ill' ad (so much)  
legalis, &c.* ]

se Assumpsit & p̄fac A. ad tunc & ibidem  
fidelie promisit qd ipse idem C. p̄dice  
vigine Libe legalis monet Angl p̄fac A.  
cum inde requisit esset bene & fideliter  
solvere & contentare vellet p̄dcus tamen  
C. p̄mission & assumpton suas p̄dice  
mie curans sed machinans & fraudulenc  
inten-

intendens eundem A. B. in hac parte cal-  
 lide & subdole decipere & defraudare p̄dice  
 20 l. nec aliquem inde denar' eidem A. B.  
 non solbit licet ad hoc faciendū p̄dice C.  
 postea scit (such a day and year) apud (Ec.)  
 per eund A. sepius requisit fuit sed illi ei  
 hucusq; solvere omniō contradixit & adhuc  
 contradic' Unde dicit qđ deterior est Et  
 dampnū h̄et ad valenc' 20 l. Et inde pro-  
 ducit sextam (Ec.)

K's Bench.

Note, That all Actions Personal, where no  
 Possession is awarded, are Transitory, and  
 not Local; as *Debt, Detinue, Annuity, Account,*  
 &c.

But *Ejectment, Trespass, Waste, &c.* are  
 Local.

An Insimul computasset for Wares and  
 Merchandizes.

ff. In custodiā Hare (Ec.) p̄ eo videt  
 Qđ cum (the Defendant) (tū die & anno  
 & loco) insimul computasset cum eodem  
 (the Plaintiff) de & concernē  
 diversis denar' summis ei-  
 dem (the Plaintiff per p̄fat  
 (the Defendant) ante tunc  
 debet p̄ diversis incimō &  
 merchandizis de eodem (the  
 Plaintiff) p̄ p̄fat (the Defen-  
 dant) ante tempus ill' empe hic & recepe  
 \* Et sup Compō illo p̄dice C. ad tunc &

Or you may say general-  
 ly—*de diversis denar. sum-  
 mis eidem quer. per p̄fat.  
 Def. tunc debet. & insolut.  
 existē. \* Et super compō  
 &c.*

K's Bench.

ibm invene fuit in arreraq erga eund A. in 20 l. leglis monete Angl Et sic inde in arreraq invene exstend idem C. in consideracon inde super se assumpsit Et pfac A. adtunc & ibm fidelie pmisit qd ipse idem C. pdice 20 l. pfac A. cum inde postea requisit' esset bene & fidelie solvere & contentare vellet pdice tamen C. pmission & assumpcon suas pdice mid curam ( &c. as before to the end. )

Note, That many times an Assumpsit, Indebitatus assumpsit, Insimul computasset, &c. are joyned in one Declaration.

Indebitae assumpsit & Insimul compud  
for Goods Sold.

Quids it. **A** B. queritur de C. D. gen in custod Mare (&c.) p eo videt qd cum pd C. primo die Januarij Anno Regni Domi Willt tertij nunc Regis Angl, &c. nono apud Paroch Scd Egidij in Campis in Com Quids ps indebitae fuisset pfac A. in vigine libris bone & leglis monete Angl p diversis incimonis & richandiz eidm C. p eund A. ad special instanc & requiscon ipsius C. ante tempus illud vendit' & deliberat Et sic inde indebitae exstend ipse pdict C. in consideratione inde postea scit eisdem die & anno apud Paroch & Com pdice super se Assumpsit & eidem A. adtunc & ibidem fideliter pmisit qd ipse pdict C. pdice vigine



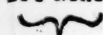
bigine Libras eidem M. cum inde requisie esset bene & fidelie solvere & contentare vellet Cumq; etiam pdict' C. postea scilicet decimo die Januarij Anno supradict' apud Paroch & Comd pdict' computasset cum eodem M. de & concernend' distis Denar. sumis eidem M. p pdict' C. ante tempus illud debet & adunc aretro &

insoluit existend' \* Et super Compos illo pdict' C. adunc & ibidem invene fuit in Arrerag erga pfac M. in al bigine Libris filis Monet Angl' Et sic in Arrerag invene existend' pp C. in consideratione inde postea scilicet eisdem die & anno apud Paroch & Comd pdict' super se assumpsit & eidem M. ad-

tunc & ibidem fidelie pmisit qd ipse idem C. pdict' Bigine Libras ult' mentonae cum inde postea requisie esset bene & fidelie solvere & contentare vellet pdict' tamen C. separat pmissionem & assumptum suas pdict' in forma pdict' fact' minime curans sed machinans & fraudulens intendens eundem M. in hac parte callide & subdole decipere & defraudare pdict' separat Denar summas in toto se attingend' ad Quadragine Libras seu aliquem inde Denar eidem M. nondum solvit nec ei p eisdem aliquo modo contentabit licet ad hoc faciend' pdict' C. postea scilicet pdict' decimo die Januarij Anno supradict' apud Paroch & Comd pdict' per eundem M. requisie fuit sed illi ei hucusq;

\* Or you may say, Computasset cum eodem quer. de & concernend. diversis denar. summis eid. quer' per prefat. Des. ante tunc debet. pro diversis Bonis & Merchandizis de eodem quer. per prefat. Des. ante tempus illud empt. h'it & recept. Et super compo illo &c.

K's Bench



solvere seu ei pinde aliquantulum contentare  
omnio recusabit & adhuc recusat unde idem  
N. dicit qd ipse deteriorat est & dampnum heri  
ad valens, (Ec.) Et inde pducit sectam, Ec.

Quantum  
meruit, for  
a Cure of  
a Wound.

Soms ff.

**A** B. querite de C. D. in eu-  
stod Narr, Ec. p eo videlicet  
qd eum pd' N. (such a day and year) a-  
pud C. in Com pd' ad spial instanc &  
requisicon ipsius C. ipm C. de quodam  
vulnere in capite suo tunc existens cura-  
ret sup se assumpsit & eidem N. adtunc &  
ibidem fideliter promisit qd ipse idem C. tunc  
Denar sum quane pdice N. p humoi cura  
vulnis pdice rationabiliter mereretur eidem N.  
cum inde postea requisit esset bene & fide-  
lit solvere & contentare vellet Et pdice N.  
in facto dicit qd ipse promissionem & assum-  
pcon pdice C. in forma pdice fact' fidem  
adhibens postea scit — (such a day and  
year) apud C. pdice in Com S. pdice  
curabit pdice C. de vulnere pdice Et p  
Cura illi rationabiliter meruit Quinq' Li-  
bras legis Honete Angl & inde adtunc &  
ibidem dedit eidem C. notitiam.

After this you may add by Cumq; etiam

Indebitas.  
Assumpsit.

Indebitatus assumpsit pro Medi-  
camentis, Ec. thus.

Cumq; etiam pdice C. postea scit co-  
dem (the day and year) ult supdia' apud  
C. pdice in Com pdice indebitae fuisset  
eidem N. in al Quinq' Libris pro diversis  
Medicamentis Emplastris Unguentis ac  
al Mercimoniis eidem C. p pdice N. ante  
tunc vendit & delibat pdoque C. sic inde  
inde.

indebitae existend in considerae inde <sup>K's Beneh</sup>  
 postea scilicet eisdem Die & Anno ule  
 sup'dict' super S. assumpsit Et eidem A. ad-  
 tunc & ibidem, &c. ( as in the Declaration  
 next before. )

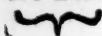
And so you may lay a Quantum vale-  
 rent p diversis Medicament, &c. sold and <sup>Quantum</sup>  
 delivered . . . . . valerant.

sup se assumpsit & eidem A. adtunc & ibm  
 fidelic promissit qd ipd idem C. tane Denar  
 summas quanc Medicamene Emplastra  
 Unguenta & al Mercimon p tempore ven-  
 dition & delibacon eor dñm rasonabilic  
 valerent eidem A. cum inde postea requi-  
 sit esset bene & fideliter solvere & contentare  
 veller Et idem A. in scō die qd Medica-  
 ment Emplastra Unguent & al Mercimon  
 p tempore vendition & delibation eor dñm  
 rasonabilic valebant al Quingue  
 Libras legis Monete Angl Unde idm C.  
 postea scilt eisdem Die Anno & Loco huit  
 notitiam ( you may also inforce this by lay-  
 ing it over again thus. ) Cumq etiam pñ A. <sup>Pro al' me-  
dicament.</sup>  
 postea scilt pñ die ( &c. ) Anno ( &c. ) apud  
 ( &c. ) ad spiat instanc & requisicon ipus C.  
 vendidisset & deliberasset pñ C. divers  
 al Medicament, &c. ( as before ) usq; notiti-  
 am huit ( but this seems rather to be to in-  
 large the Declaration than for necessity ) pñ  
 tamen C. sepat pmission & assumproñ su-  
 as pñ mie curans sed machinans, &c. ( as  
 in the Declaration last before. )

Here also may be joyned a *mutuatus* for  
 other Money, if need be. See after.

And

K's Bench.



\* As Debt  
and Deti-  
nue may  
be joyned  
together.  
And so  
*Quantum*  
*mer. inde-*  
*bit. aff.*

*Quantum valeret mutuatus, &c.* as before is observed.

And the laying it so many ways is, that you may be sure to hit upon one of the Promises; And so one may joyn several \* Causes or Wrongs in one Action or Narr' so they be of one Nature, and against one Person; so one Action of the Case for divers Promises. But Debt, and Trespas and Wrongs cannot be joyned together in one Action, though against one and the same person.

### Indebitatus Assumpsit for Flesh Meat.

¶ **I**ndebitatus fuisse eidem *N.* in 203. *legalis* (&c.) p *Carne Bobina* Anglice Beef, *Carne Vitulina* Anglice Veal, *Carne Ovilla* Anglice Mutton, & *Carne Agnina* Anglice Lamb, p *p̄s C.* de eod *N.* antetunc empe hic & recepe. &c. (ut in aliis.)

For Bread.

¶ *Pro Pane* eidem *Def.* per *p̄s Quer* ad sepat tempora *pantea* vendie & deliberae Et sic inde *indebitatus* existend (ut in aliis.)

For

For Monies borrowed,

ff. **P**ro Pecuniis p pſat Def. ante tempus illud de pſat Quer mutuae & adhuc insolue exiſten, &c. (ut in aliis.)

Or thus: Indebitae fuiſſet pſat Quer in 5 l. legis Monete Angl p conſili denat ſum p pſ Def. pſat quer ante tempus illud mutuat habit & recepit' (&c.)

Ejectment.

Hiddr ff. **A**B. queritur de C. D. in cuſtod Murr, &c. pro eo videlt Qd cum C. C. Gen decimo die Jan Anno Regni Dni Willi tertij nunc Regis Angl, &c. ſexto apud Weſtm in Com pſedict' dimiſiſſet conceſſit & ad Firm tradidiſſet pſat A. quinque Meſſuagia & quinq; Ceſta (reciting the Parcels) cum pertind ſituaſ' jacent & exiſten in Paroch (the place where) in Cam pſdict' hend & tenent Ceſta pſdict' cum pſind pſat' A. & Aſſign ſuis a primo die Januarij tunc ult' pterit' uſq; plenid ſind & terminid quinq; annoꝝ extunc pꝛox' ſequen & plenar complend & finiend virtute cujus quidem diſmiſſionis idem A. in Ceſta pſdict' cum pertind intrabit & fuit inde poſſeſſionat' quouſq; pſ C. poſtea ſcilicet eodem decimo die Januarij Anno ſexto ſupradicto vi & armis, &c. in Ceſta pſdict' cu pſind in & ſup poſſeſſion ipsius A. inde intrabit & ipſm A. a firma ſua pſ Cerimio ſuo pſ inde



*K's-Bench.* inde nondum finie ejecit expulit & amovit  
ipm q; p'd' A. sic inde eject' expuls' & amor  
a possessione sua inde extratenuit & adhuc  
extratenet Et alia enormia ei adtunc &  
ibm intulit contra Pacem dic' Dm Regis  
nunc Et ad dampn' ipsius A. decem Libr  
Et inde producit sextam, &c.

Pleadwell p Quer } Pleg, &c.  
Cunningham p Def. }

Note, The Defendant is not arrested up-  
on these Ejectments, for they being  
usually to try a Title, the first Defendant  
is some Friend to the Plaintiff; and at  
the bottom of this Declaration or back-  
side, in his Name, notice is given to the  
Tenant in Possession to defend his Title  
after this manner:

Mr. J. Holdfast,

**Y**OU may perceive by this Declaration  
in Ejectment, That I am sued for the  
Premises, or for some part thereof, to which  
I have no Title. If therefore you claim any  
thereto, and intend to defend it, you must  
appear the next *Michaelmas* Term, in his  
Majesties Court of *King's Bench* at *Westmin-*  
*ster* by some Attorney of that Court, and  
make your defence, otherwise I shall suffer  
Judgment to pass against me by default, and  
you will be turned out of Possession.

30 Julii 90.

Yours. C. D.

If

If the Tenant appear he must enter into a Rule to confess the Lease, Entry and Ouster, and is made Defendant in the Declaration in the room of the other Defendant, and must plead not Guilty, and insist upon his Title only at the Tryal, &c. Otherwise Judgment may be entred by default.

So if he appear not, Judgment will pass against the first Defendant by default.

And then a Writ of Possession issues out. As you may observe in the Judgment before entred in Ejectment.

*The Warrant to the Attorney may be thus.*

Mr. D.

**A**pppear for me J. H. to this Declaration, and make me Defendant in the place and stead of C. D. Yeoman, and plead not Guilty, with confession of Lease, Entry and Ouster, and this shall be your Warrant, &c.

*The Rule by Assent thus.*

Mich 7 Willi terccj Regis.

ff. **O**rdinar est ex assensu Altoꝝ am-  
baꝝ partiꝝ qd J. H. fiat Defend  
in loco modo Defend C. D. & compebit in-  
dilate ad sextam Quer Et impon Coið  
Ballium & recipiet Part in plito transgr  
& Ejeccon firme p tentis in questione &  
plitabit ad inde non cul indilate Et sup  
triac J. L.

A. B. versus  
C. D. decem  
mess' (&c.)  
naming the  
parcels in  
G. in Com.  
Somerset ex  
dimissione

**R.** Bench. triac Eric cognd dimissis intrac & actual  
 Ejecton & insistet super titlm tanc aliter  
 Judic intretit p quer versus modo De-  
 fend Roe p default Et si super triat' Eric  
 pd idem J. non cognd dimissis intrac &  
 actual Ejecton p quod quer Billam sua  
 versus pd J. ulterius prosequi non po-  
 terit tunc nulla mis sive custag super hu-  
 moi non pros adjudicene Sed pd J. sol  
 prefat quer mis sive custag superinde tax-  
 and Et ulterius ordinat' est qd si super  
 triac Eric ps veredice reddit' fuit pro  
 Defend J. H. vel si acciderit pd quer Bil-  
 lam suam ps ulterius non prosequi prop-  
 ter aliquam aliam causam qm p non  
 cognd dimissis intrac & actual Ejecton ps  
 qd tunc dismissor quer sol prefat' J. mis  
 & custag in ea parte adjudicand' &c.

Both the Attornies  
 set their Hands.

*Pleadwell pro Quer.*  
*Cunningham pro Def.*

The Rules made by the Office upon this  
 differs but little ; and each Attorney must  
 have one, or a Copy.

Note, If the Defendants Attorney will  
 not enter into Rule by consent : Then  
 the Plaintiff may move the Court, that  
 unless the Tenant in Possession will en-  
 ter into such Rule by consent, Judg-  
 ment may be entred against the Casual  
 Ejector.

But

But it is necessary before this, that an Affidavit be made of the service of the Declaration. Ks' Bench.

Which may be after this manner at the bottom of the Narr<sup>s</sup>, or back-side under the Notice to the Tenant.

**A** B. maketh Oath, that on the . . . day of . . . last he delivered a Copy of this Declaration unto Mr. J. Holdfast Tenant in Possession of the Messuage and Lands mentioned in the Declaration, with a Note on the back-side, [or with the Note above-written as the manner is] containing the Contents of the Words above-written, and this Deponent did then Read the same unto him.

Jur' . . . die . . . }  
coram me, &c.

A. B.

See before for Judgment by *Nil Dicit* in Ejectment, and for a Writ of Possession.

Note, If the Plaintiff suffer a *Non Pros* at the Assizes, *quia Def. non Cogn*, &c. Its said, you need not Stamp the Record for *Postea* or *Judgment*, but only to shew the Record from the Assizes; And Judgment will be Signed upon the Rule by consent.

In

K's Bench.

In this Title of Ejectment it may be useful to speak something concerning Proceedings by Original.

And note, That *Proceedings* by Original are little used in this Court, the Attornies not being so well versed in that Method, as also it is more subject and liable to Errors; However, in some Cases, as in Ejectment, that practice is very necessary to be understood; and seeing I do not find it set forth in any Books that Treat of this Subject, I think it may be useful to Insert it. The Method is much after the manner of the Court of *Common-Pleas*, and the advantage is, That a Writ of Error upon a Judgment in Ejectment by Original cannot be brought, or at least returnable: But when the Parliament is sitting, which is of great use for the speedy getting into Possession. As you ought to have a *Latitat*, to warrant your Ejectment brought in the usual manner by Bill in the Country: So in this way of Pleading, you must of necessity have an Original, which is the Foundation of the Action. Draw a *Præcipe*, which is the instruction to the Cursitor of the County where the Land lieth, to make the Original; in this manner.

*Sons* ff, ( The County where the Land lieth ) si A. B. ( viz. ) the Plaintiff fec, &c. tunc pone, &c. C. D. ) viz. ) the Defendant nuper de F. in Comd p'd Heomen ( Note you must put the Defendant's Addition or else it is Error ) ad respondens prefat' A. B. de placito



placito quare Di & armis unum mesuagium centum arras terre quinquaginta acri prati & quinquaginta acri pasture cum pertinentiis in G. (viz.) (the Parish where the Land lieth, and the House and Land as you lay them in the Declaration) que S. (viz.) (the lessor of the Plaintiff, that is, the person that hath the Title in him) prefat' A. B. Dimisit ad terminum qui nondum preterit intrabit & ipsum a firma sua preceperit & al' Enormia, &c. ad Grave Damnum, &c. contra pacem, &c. return in octabis Scilicet Hillarij ubique, &c. in the Kings-Bench.

Carry this Precipe or Instruction to the Cursitor of the County where the Land lieth, at the *Cursitors Office* in *Chancery-lane*; and he will make you out the Original, for which you pay him 2s. 6d. The Original must be Returnable on a General Return day, as in *Octobris Scilicet Hillarij*, and may be the first Return of the Term, whereof your Declaration is, That is, if you have Judgment against the Casual Ejector, for that the Tenant doth not enter into a Rule and plead, then your Original must be against the Casual Ejector, but if the Tenant appear and plead, then your Original must be made against the Tenant, and not against the Casual Ejector.

Which Original you must get returned by the Sheriff, to whom it is directed, although the practice usually is for the Plaintiff's Attorney to return the Original.

nal: And after 'tis returned, it ought to be filed with the *Custor Brevium* of the *King's-Bench*.

Thomas Pratt

Verf.

Johem Pratt.

The Form of the Rule by Consent for making the Tenant Defendant in an Ejectment brought upon an Original.

**O**rdinac est ex assensu ambar' partiu' & eor' attor' qd Samuel Sandys Ar' & E. Sandys gen' fiant Defend in loco Johannis Pratt, & compbunt indilate ad sectu' quer' & acceptabunt Par' in plito transgr' & Ejeccon firme pro tant' pmissor' in controverfia quant' sunt in tenura Wali' Mallet eor' subreneu' & plitabunt ad inde non cul indilate Et sup triacon Erit ill' cogn' dismission' Intracon & actual' Ejeccon & insistent sup titlum tantu' Et si sup triacon Erit ill' p'di S. & E. reculabant p'formare istam reglam Et Quer' rone inde non p'olequi potest h're suu' tunc taxac' Custag' sup humoi non p's cessabit & p'di S. & E. solverent tal' custag' Querenti qual' p' Cur' Dni Regis hic taxabunt & adjudicabuntur p' tal' defen suo in non p'formacoe p' hujus Regle Et Judicu' intrabit' versu' eundem Johannem Pratt modo casual' Ejeccon' per Defalt' Et ultius ordinat' est qd si sup Triacon Erit ill' veredicu' reddit' fuit pro defend' vel si Quer' non p'leque fuerit h're suu' sup aliqua occone nisi p' non cogn' dismission' intracon & actual

& actual Ejector ut p̄fertur tunc dimissor' K's Bench.  
 Quec solvit custag' si Quec non solvit.

P. Quec,  
 D. Def.

Nich Anno Decimo Willi tertij Regis.

South ff. **C**arolus Draper (the Defen-  
 dant.) Puper de Petersfield  
 in Com Southton Heoman, Attach fuit ad  
 respondend' A. B. (the Plaintiff) de plito  
 quare Vi & armis, &c. und Mesuagiū und  
 pomar und horreum quinquagine acr' terre  
 quinquagine acr' p̄ati quinquagine acr' pa-  
 sture Cum pertineat in E. viz. (the Parish  
 where the Land lieth) in Com p̄d que J. S.  
 viz. (the person that hath the Title in him)  
 eidem A. B. dimisit ad Terminum qui non-  
 dum p̄teritit intrabit & ipsum a firma sua  
 p̄d Ejecit & al Enormia ei intulit ad grave  
 Dampnum ipus A. B. Et contra pa-  
 cem Dñi Regis nunc Et unde idem A. B.  
 p J. Pleadwel Attornatum suum queritur  
 qd cum p̄dictus J. S. viz. (the Lessor)  
 decimo die Octobris anno Regni die Dñi  
 Regis nunc Decimo apud E. p̄d viz. (the  
 same Parish where the Land lieth) Dimisit  
 set eidem A. B. tēta p̄dice cum pertineat  
 habend' & tenend' p̄d' A. B. & Assignae  
 suis a nono die Octobris tunc ul' p̄e-  
 terie usque plenum finem & Terminū  
 quinq; annor' ex tunc p̄ox' sequend' ple-  
 nat complend' & finiend' Virtute cujus qui-  
 dem dimissionis idem A. B. in tēta p̄dicta

K's Bench.



cum pertinen<sup>d</sup> intrabit & fuit inde possessor  
 onae ipsoque A. B. sic inde possessionar ex-  
 isten<sup>d</sup> p<sup>r</sup>dictus C. D. viz. (the Defendant)  
 postea scilicet eod<sup>m</sup> decimo die Octobris  
 anno decimo sup<sup>ra</sup>di & armis, &c. in  
 testa p<sup>r</sup>dictae cum pertinen<sup>d</sup> que p<sup>r</sup>ae J. S.  
 (viz. the Lessor) eid<sup>m</sup> A. B. in forma p<sup>r</sup>  
 dimisit ad terminum p<sup>r</sup>dictae qui nondum  
 p<sup>r</sup>erit intrabit & ipum A. B. a firma  
 sua p<sup>r</sup>dictae eiecit expulit & amovit & al  
 Enormia, &c. Ad grave dampnum, &c.  
 Et contra pacem dicti d<sup>n</sup>i Regis nunc  
 unde dicit q<sup>d</sup> deteriorae est & dampnum  
 her ad valenc<sup>e</sup> 10 l. Et inde p<sup>r</sup>ducit  
 letam, &c.

Pleadwell p Quer

Cunningham p Def.

} pleg, &amp;c.

Then write Notice to the Tenant or  
 Tenants in possession, as in the former In-  
 structions in Ejectment, and serve it before  
 the Essoyn-day of the ensuing Term. Make  
 your Affidavit of service of the Declara-  
 tion, and move for Judgment against the  
 Casual Ejector, and draw up the Rule; If  
 the Tenant, or his Landlord, do not ap-  
 pear and leave a Rule at the Judges Cham-  
 ber: And if a Rule be left, then enter it  
 with the Clerk of the Rules as before, and  
 draw your Declaration *de novo*, which must  
 be of the same Term, (*viz.*) of *Hilary*;  
 your first Declaration being of *Michaelmas*,  
 and then instead of *C. D.* the Casual Ejector,  
 your

your first Defendant, put in the Name of K's Bench. the New Defendant mentioned in the Rule left in the Judges Chamber, and his Addition ; for that is necessary in this Action ) and so alter the Declaration as to the Defendants Name, and leave out the Notice to the Tenant, as in the former Instructions, and the Defendants Attorney must plead *Non Culp.* But it is said, he need not plead before you shew the Original.

Note, You should write the Declaration Copy-wise, and make the Defendants Attorney a Copy thereof, for which he now pays Six pence *per* Sheet, then draw up your Issue ; but you must not begin *Memorandum qd die, &c.* but leave out all the *Memorandum*, and begin as the Declaration begins, and then the Imparlance, as follows.

Et p̄dcaſ C. D. (the New Defendant) p̄ J. C. Attornatum suum veni & defendam & injuriam quando, &c. Et die qd ipse in nullo est culpabilis de C̄lſgi & Ejeſcon p̄d put p̄dcaſ A. B. (the Plaintiff) ſupius verſus eum queritur & de hoc pon̄ ſe ſuper patriam & p̄dice A. B. ſilie, &c. Nō p̄ceptum eſt Die qd Venire ſac̄ hic in Octab̄ P̄uī ſte Marie (the laſt Return of the ſame Term) ubicunq; tunc fuer̄ in Angl̄ duodecim, &c. per quos, &c. & qui nec, &c. ad Recoḡn, &c. quia tam, &c.



K's Bench.

*Cap. exit.*

Deliver a Copy of this Issue to the Defendants Attorney, for which he must also pay you Six pence *per Fol.* and for entring Plea and Warrant of Attorney 2 s. 8 d. He should also pay for entring the Rule 2 s. it being his Rule, not the Plaintiffs, and give him Notice of Trial, as before.

*Ret' ubicun-  
cunque.*

Here Note, That your *Venire* which is mentioned at the end of the Imparlance, must be Returnable on a General Return-day, as in *Octab. Pur. Ste. Marie*, as in *Common-Pleas*; but it must be also *ubicunq; tunc fuerimus in Anglia*, in which it differs from the *Common-Pleas*; and the true Reason of this difference is, because in Ancient times the Court of *Kings-Bench* was not fixed or held in any particular certain place, as now it is, but followed the King's Court and was held wherever the King was: And also you must observe, that all your other Writs in this way of proceeding, as well the *Distringas* before the Trial, as the Writ of Possession and other executory Writs after the Trial, must also be Returnable on a General Return-day, & *ubicunq; tunc fuerimus in Anglia*, and so must the *Jurat* of the Record of the *Nisi prius* be.

Having made your *Venire* Returnable on a General Return-day *ubicunq; tunc fuerimus in Anglia*, you must get it Returned, by the Under-sheriff, and then make out your *Distringas* as in the former proceedings only it must be Returnable on a General Return-day, as a *die Pasche in quindecim dieb;*

**dieꝝ ubicunq; tunc fuerimus in Anglia,** K's Bench.  
*(viz.)* the first Return of the ensuing Term :  
 Then make up your Record, of which the  
 first *Placita* must be exactly as in the other *Placita*  
 way, only you must leave out the *Memoran-*  
*dum*, and begin with the Declaration, as you  
 did in the Issue.

After you have Engrossed the Declaration  
 and Plea, and the second *Placita* is left out,  
 you come to the *Jurat*, which must be *Jurat*  
*Jurat* inc *A. B. per Attornatum suum*  
*quer & C. D. de pñto Cūlgi & Ejectionis*  
*firme ponitur in Resp coram Dño*  
*Rege ubicunq; tunc fuit in Anglia usq;*  
*a die Pasch in quindecim dieꝝ,* (*viz.* the  
 Return of the *Distingas* , ) and the rest as in  
 the other *Jurat*.

You Seal the Record at the same Office in *Seal*  
*Grays-Inn* , and pay the same Fees ; then  
 draw your Breviat, in which you make a  
 short Recital of the Declaration, and add the  
 Plea , and that the Defendant is to con-  
 fess Lease, Entry and *Ouster* by Rule of  
 Court, &c.

Many unexperienced Attornies are much *Breviats.*  
 defective in the Breviats; the most approved  
 way is, first write in the Margent or in the  
 Middle , the Plaintiffs Title ; then begin  
 with the Person who was seized in Fee of the *Plaintiffs*  
 Premises in question, and under whom the *Title.*  
 Lessor of the Plaintiff your Client claims,  
 and deduce the Title carefully and orderly  
 from such persons so seized to your Client,  
 setting forth the Dates and Contents of the  
 Conveyances , and observe how they are  
 executed,

K's Bench.

Deeds  
proved.

executed, whether by Livery or Seisin, or by Inrolment, or by Lease and Release, or by Fine and Deed of Uses, if or your Client be in by Purchase, and take particular Care how to prove the Deed, as the Law requires The Chirograph of a Fine proves it self, and so doth a Deed Inroll'd, according to the Statute, and so do every ancient Deeds, where Possession hath gone accordingly.

If all the Witneses to a latter Deed are dead, you must endeavour to prove that they are dead, and that their Names set as Witneses to the Deed is of their Hand-writing, and to prove the Grantors Hand: And sometimes it is necessary, if it be not an old Title, to prove the person seized, and in possession under whom you claim.

Will.

If you claim by Will, which is not proved in *Chancery*, a Copy of the Will out of the *Spiritual Court* is no Evidence for that purpose; but you must have the Will it self out of the Office, which the Proctors there will put you in a way to obtain upon security: And if the Will be proved in *Chancery*, you must have a Copy of Bill, Answer and Depositions, and prove them true Copies Examined with the Records.

By Discent.

If your Client be in by Discent, prove the Ancestor seized in Fee under whom you claim, and set forth and prove your Pedigree, and likewise draw it in the form of a Pedigree in the Margent of your Declaration, that your Council may apprehend it without perplexity.

If

If the state be Copyhold, you must prove it part of such a Mannor, and you must prove the Admissions to be true Copies of the Court-Rolls.

K's Bench.  
Copyhold.

When you have set forth your Clients Title and your Proofs, it is a good way also to set forth the Defendants Title, or pretended Title, so far as you can come to the knowledge of it, that your Counsel may be in some measure informed and prepared against it.

Defendants  
Title.

All Titles cannot be tryed by Ejectment; for where the Entry is taken away, an Ejectment lieth not, as by Disseizens and Discents, Fines, and Recoveries, and Non-claims, and Limitations, which are not here to be treated of; and therefore if your Client claim by a stale Title, as above 21 years standing, and be not helped by Nonage, *Oustre le Mere*, Imprisonment, Coverture, &c. you will be in danger to fail in your Action; and the like in Cases of Fines and Non-claims; so that it is safest to have the Advice of Counsel before Trial, if the Question be any thing intricate.

What Titles triable.

And also observe, That if the Lessor of the Plaintiff doth not prove a good and absolute Title in himself, he will be Non-suited, tho' the Defendant have no Title at all; for the Defendants possession will secure him.

Plaintiff  
Non-suited.

And also if he can make appear, That a Third person, not concerned in that Action, hath Title in him that shall Nonsuit the Plaintiff.

And

Ks Bench.

Another thing to be observed is, That the Plaintiff is sometimes Nonsuited through Inadvertency. As for Instance;

Mortgage.

If the Mortgagor make a Lease of the Premises for 7 years at an improved Rent, and some time after Mortgages the Lands for payment of a Sum of Money with Interest; at the expiration of a year or two, the Money not being paid, the Mortgagee brings his Ejectment against the Tenant to recover the Possession, to which the Tenant appears and makes himself Defendant, and at the Trial produceth and proves the Lease; which being prior to the Mortgage, and not expired, the Plaintiff will be Non-suited, tho' he hath a good Title, and by virtue whereof he might have compelled the Tenant to Attorn, if a right Method had been used.

*Vide more  
in Trials  
per Pais.  
pag. 190,  
191, 192.  
last pub-  
lished.*

These few Observations, as is said before, are intended for Young Beginners and Unexperienced Practicers, and even sometimes the more Able happen to be surprized by such Accidents.

After your Tryal call for your Record with the *Postea* Indorsed, and your *Distringas* and *Memorand'*, to give a Rule on the *Postea*, and tax the Costs, and enter your Judgment, and take out your Writ of *Possession*, as in the former Directions; only you must make your Writ Returnable on a General Return-day, *ubi-  
cunq; tunc fuerit in Anglia*, as aforesaid; and say, *tum, &c. p' breve nostr'*, and not *p' billam* [and pay the Fine on the *Capiatur* to  
th e



the Secondary's Clerk before the Secondary K's Bench. will tax Costs ; and so you must, if you proceed in the usual manner upon a *Latitat*, upon an Action of Trespafs. ]

But if this Action be in *London* or *Middlesex*, you take the Record and *Distringas* from the Sociat immediately after the Trial is over, and indorse the *Postea* on the Record your self.

See Instructions for Entering up Judgment in other Actions.

It is generally held , That if there be a Parliament in being , as by Adjournment or Prorogation, tho' not actually Sitting ; yet a Writ of *Error* Returnable in Parliament-time may be sued out ; and that the shewing the same to the Plaintiffs Attorney, is a *Superfedeas*.

Others think , it ought to be allowed before it can have the effect of a *Superfedeas*.

But that Honourable Court is of so high a Nature , that great care must be taken to pay due Respect and Obedience to any Process there Returnable.

De-

## Detinue upon a Bargain.

Som̃s ff. **A**. B. nup de ( &c. ) sum̃ fuit  
 ad respondend̃ C. D. de  
 plito qđ reddat ei catalla ad valenc̃ 20 l.  
 que ei iniuste detinet, &c. Et unde idem  
 C. per R. D. Attor̃m suū dic̃ qđ cum ip̃s  
 10 die Maij Anno regni dñi Regis nunc  
 decimo apud F. emisset de p̃fac̃ M. catalla  
 videst [ Here name the Goods ] ad valenc̃  
 20 l. eidem C. super . . . . . diem . . . .  
 tunc pr̃ sequend̃ deliberand̃ p̃s tamen A.  
 licet sepius requisit̃ catalla p̃s eidem C.  
 nondum deliberabit. Set ill̃ ei hucusq;  
 deliberare contradixit & adhuc con-  
 tradic̃ Unde dic̃ qđ deteriorae est & damp-  
 num het ad valenc̃ 20 l. Et inde p̃duc̃  
 lectam ( &c. )

## Detinue for a Bond.

ff. A. B. &c. sum̃, &c. ad respondend̃ C. D.  
 de plito qđ reddat ei quoddam scriptū  
 Obligator̃m quod ei iniuste detinet, &c.  
 Et unde idem C. p̃ J. S. Attor̃m suū  
 dic̃ qđ cum ip̃s ( such a day and year )  
 apud C. delibasset p̃fac̃ M. scriptū p̃s in  
 quo continetur qđ quidem M. B. tenetur  
 & obligatur eidem C. D. in 50 l. bone &  
 leglis monete Angl̃ certo termino in eod̃  
 scriptum contene solvend̃ salvo custodiend̃  
 & eidem C. cum inde requisit̃ fuisset deli-  
 berand̃ p̃s tamen A. licet sepius requisit̃  
 scriptū

scriptū p̄dict eidem C. nondum delibabit  
sed illi ei hucusq; (Ec.) Vide Instruct. Clerical.  
2d. Part.

Declaration in Trespass for Breaking his  
Close, Eating up and Treading down his  
Grass, with a *Continuando*.

Som̄s ff. **A.** B. queritur de C. D. in  
ip̄o C. p̄mo die Maij Anno Regni Dñi  
Willi tertij nunc Regis Angl', Ec. deci-  
mo Vi & armis, Ec. Cū ipius A. vocat  
White-acre, apud C. in Com̄ p̄s fregit &  
intrabit Et herbam ipius A. ad valenci-  
am centum solis nup̄ cresced cum quibul-  
dam aberiis videlicet equis vaccis porcis &  
al bidentibus depasc fuit conculcavit &  
consumpsit Cūq; p̄s quoad p̄dice depasc  
conculcacoem & consumpcoem herbe p̄s a p̄s  
p̄mo die Maij Anno sup̄dicti usq; p̄mo  
die Septembris extunc p̄r sequent̄ diebus  
& vicibus continuando Et alia  
enozmia ei adtunc & ibi intulit ad grave  
dampnum ipius A. Et contra pacem dice  
Dñi Regis nunc Unde idem A. dicit qđ  
deteriorat est Et dampnum het ad valen-  
tiam quadraginta librarum Et inde pro-  
ducit Sextam (Ec.)

In Assault and Battery.

Som̄s ff. **A.** B. queritur de C. D. in  
ip̄o p̄mo die Maij Anno Regni Dñi  
Willi tertij nunc Regis Angl', Ec. deci-  
mo

**R's Bench.** mo **Di** & armis videlt gladiis baculis & cultellis in ipm **A.** apud **E.** insule fecit & ipm verberavit vulneravit & maletractavit ita qd de vita ejus maxime desperabatur Et alia enormia ei adtunc & ibm intulit contra pacem dice Dñi Regis nunc ad dampnum ipsius **A.** 20 l. Et inde producat sextam, &c.

In Assault, Battery and Imprisonment.

— Insule fecit & ipm **A.** verberavit vulneravit imprisonavit & maletractavit & ipm pñ **A.** in pñsona sine aliqua rñabili causa contra volune ipsius **A.** & contra legem & cons hujus Regni Angl per magnū tempus (viz.) p spatio duoz. dierum continuit & custodivit Et alia enormia ei adtunc & ibm intulit contra pacem dice Dñi Regis nunc ac ad dampnū ipsius **A.** 40 l. Et inde producat sextam (&c.)

A Declaration by a Clerk of the Office.

*Pro Clerico  
Offic.*

**A. B.** Gen und Cllico **R. H.** & **E. C.** Armig Capital Cleric Dñi Regis ad pñta in Cur ipsius Dñi Regis coram ipō Rege irrotuland assigñ juxta libertatē & pñvileg p humod Capital Clericis & eoꝝ Clcis a tempore cujus contrat (memoria hominū non existit usitatē & approbat in ead pñsens hic in Cur in pñr persona sua queritur de **C. D.** in custod Narr, &c. p eo videlt qd cum (&c.)

Case.

Or,

Or, — in custod Narr, &c. de plito qđ reddat ei 10 l. quas ei debet & injuste detinet (&c. as the Case is.)

### Against an Attorney of the Court.

It. A. B. queritur de C. D. Gen<sup>d</sup> und At- Verf. At-  
toz<sup>d</sup> Cur<sup>i</sup> Dñi Regis coram ipō Rege torn.  
p̄sent hic in Cur<sup>i</sup> in ppr' person sua p eo  
videlt Qđ cum (&c.) These may serve pro &  
con. mutatis mutandis.

### Replevin.

It. A. B. sum fuit ad respond C. D. de Replevin.  
plito quare cepit averia ipsius C. & ea  
injuste detinuit contra vad & pleg, &c.  
Et unde idem C. p R. G. Attoz<sup>d</sup> suum  
queritur qđ p̄d A. primo die Maij anno  
Regni Dñi Willi tertij nunc Regis Angl  
&c. Decimo apud S. in Com<sup>o</sup> p̄dice in qua-  
dam loco ibm vocat Spring Close, cepit a-  
veria ipsius C. videlt duos boves & tres  
vaccas & ea injuste detinuit contra vad  
& pleg quousq, &c. Unde p̄dice C. dicit qđ  
ip̄o deteriorat est & dampnū her ad va-  
lent 20 l. Et inde produc Sextam, &c.

See for Rules of Proceeding in this Action, See more  
when removed out of an inferior Court, of Declara-  
and how, in the Introduction to Mr. tions in the  
Vidian's Entries. Second  
Part.

### Trover





Trover.

ff. **A.** B. queritur de C. D. in custod  
 dicit A. decimo die Maij anno Regni Dni  
 Willi tertij nunc Regis Angl, &c. deci-  
 mo apud L. in Com pdice possess. fuit de  
 bonis & catallis videlt und lecto pulvinar  
 (Anglice Feather-bed) [naming the Goods]  
 ad valenc 40 l. ut de bonis & catallis suis  
 ppr Et sic inde possessione existend idem  
 A. postea scit pd 10 die Maij Anno deci-  
 mo supdicto apud L. pd in Com pdice  
 bona & catalla ist extra manus & posses-  
 sion suas casualie pdidit & amittit que  
 quidem bona & catalla sic amitt. postea  
 scit pdice 10 die Maij anno septimo sup-  
 dicto apud L. pdice in Com pdice ad ma-  
 nus & possession pd C. per invencom debe-  
 ner pd tamen C. sciens bona & catalla pd  
 fore bona & catalla ipsius A. ppr & ad  
 ipm A. de jure spectare & pertinere. ma-  
 chinans tamen & fraudulenc intendend eum-  
 dem A. in hac parte callide & subdole de-  
 cipere & defraudare bona & catalla pdice  
 licet sepius requisit, &c. eidem A. non-  
 dum delibabit sed bona & catalla pdice  
 postea scit 16 die Maij anno decimo su-  
 pradicto apud L. pdice in Com pdice in  
 usum suum ppr convertit & disposuit  
 Unde idem A. dicit qd ipd deteriorat est  
 Et dampnum het ad valenc sexaginta  
 libi Et inde produc lectam, &c.

*Of Affidavits.*

**I**F you have occasion to alter the *Venue* in a Declaration, you must write the substance of your Affidavit in the Margent thus:

Defendens in hac Narratione mentionae prestitit Sacram suum quod promissio et assumptio in ead Narr mentionat ( si que p ipsum facta fuer ) fuer facta in Com S. Et non in London [ or Middx ] nec alibi extra eundem Com S.

And so of the like.

*Affidavit of Delivery of a Declaration.*

A. B. pstitit Sacram suum quod ipse recepit hanc Narr [ or, quod ipse recepit Narr Unde hec est copia ] 24 die Octobr ult p-  
rie et non antea.

*Rules to be observed in His Majesties Court of King's-Bench, in Proceedings upon Declarations delivered to Prisoners in Goal.*

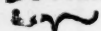
It is Ordered as followeth :

**F**irst, That no Copy of a Declaration be delivered to a Prisoner in Custody, before the Day of the Return of the Process, upon which the Defendant was taken or charged in custody.

O

Second-

B's Bench.



Secondly, That no Rule be given for the Defendant in Custody to appear and plead to any Declaration against him, till an Affidavit be filed with the Clerk of the Rules, of the Delivery of a Copy of such Declaration, and the time when, and the Person to whom the said Copy was delivered ; and that the Defendant was arrested or charged in Custody, by Process of this Court, returnable before the delivery of such Copy ; and that the time when such Affidavit was filed, be entred upon the said Affidavit by the Clerk of the Rules, and a Copy of such Affidavit be produced to the Prothonotary or Secondary before signing of Judgment.

Thirdly, If a Copy of the Declaration be delivered against such Defendants, before *Mensem Paschæ*, or *Crastinum Animarum*, and Affidavit thereof made and filed, and the Defendant doth not appear before the end of Ten days after *Easter* and *Michaelmas* Term respectively, Judgment may be entred against him, if Rules have been given: But if he doth appear before the end of Ten days after the Term, he shall Imparle until the next Term ; (unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within Forty Miles of *London* or *Westminster* ) then, tho' he doth appear before the Expiration of Ten days after the end of the Term, he shall plead two days before the Effoyn-day of the next Term ; and in default thereof (Rules having been given) Judgment may be entred against him, as aforesaid.

Fourth.

Fourthly, If a Copy of the Declaration be delivered against such Defendant, on, or after *Mensem Paschæ* in Easter Term, or *Crastinum Animarum* in Michaelmas Term, or in *Hillary* or *Trinity* Term; and thereupon the Plaintiff gives Rule to appear and answer. Then must the Defendant appear two days before the *Essoyn-day* of the next Term: But if he does not appear within that time, Judgment shall be given against him.

Fifthly, If a Writ be Returnable in any Term, and a Copy of the Declaration has been delivered before the *Essoyn-day* of the next Term; the Plaintiff in such next Term may give Rules to appear and answer: And if the Defendant does not appear and plead upon the Expiration of the Rules, Judgment shall be given against him.

Sixthly, If the Declaration be not Filed before the end of the next Term, after the Writ or Process (by which the Prisoner was taken or charged in Custody) is Returnable, and Affidavit made and filed in manner, as aforesaid, before the end of twenty days next after such Term, the Prisoner shall be discharged by Common Bail, signed by one of the Justices of this Court.

Seventhly,

K's Bench

Seventhly, If any Goaler or Keeper of a Prison, having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, and not deliver it forthwith unto such Prisoner, an Attachment shall be issued against him.

*John Holt.**William Gregory.**William Dolben.**Giles Eyre.*

When you admit a Guardian for an Infant before a Judge, do in this manner:

Take a piece of Parchment like a Bail-piece; then write thus:

Som̃s II. J. B. qui intra erat viginti  
 & unius annorum existit  
 admissus est p̃ Cur Dñi  
 Regis coram ipso Rege  
 p̃ J. S. Gen Guardian  
 suum ad defend̃ omnes &  
 omnimod̃ Actones & Actus  
 in eas Cur̃ dependend̃ ad  
 sect̃ W. B.

Sam. Eyre,

When



When you have Bail, the next thing is <sup>K's Bench</sup> to draw your Declaration, wherein ( in Special Cafes ) there is often great difficulty ; and it is a Fee very usefully bestowed to advise with able Counsel upon the Declaration.

Many Causes do miscarry, and many Delays and Charges happen by Demurrers, Arrests of Judgment and Writs of Error, for want of good Advice on the Declaration at first : But Clerks ( at least for some time ) are employed only in the general and usual Forms of common Declarations, of which ye shall find most of the necessary Precedents here inserted.

You write the Term and Year of the King on the Top of the Declaration, the County in the Margent, the Attorney's Name at the bottom [ with *pleg de psequens*, &c. or else 'tis Error. ]

Carry the Declaration ( of which it is the safest way to keep a Copy ) to the Defendant's Attorney : You must deliver it before the Effoyn-day of the ensuing Term ( which is the first General Return ) or else you cannot compel him to plead that Term.

And note, If you do not deliver it before the Rising of the Court, the last day of the second Term, the Defendant may have Judgment and Costs against the Plaintiff for not declaring in two Terms.

K's Bench.

It was the ancient Practice to write the Declaration on Parchment, and file it in the Office, for which they paid 4 *d.* but now that is not done; except against Attornies and Prisoners, and when Writs of Error are brought.

But still the Attornies pay 2 *s.* per Term to Mr. Bromfield, for Filing their Declarations.

And sometimes if you cannot find out where the Defendant's Attorney lives, to deliver him the Declaration, you may engross it on Parchment, and file it, which will be as effectual as if you delivered it to the Attorney; but you ought to give notice either to the Attorney, when you can find him, or to the Defendant.

The first day of the ensuing Term you make up your Paper of Rules, writing your Name and the Term on the top, and then *N. B. Plus C. D.* and so all your Causes wherein you are for the Plaintiff, one under another, and carry your Paper to the Secondary in the Office, and he now gives one peremptory Rule to plead in about eight days. Carry that Paper to the Clerk of the Rules to be entred, and pay him 1 *s.* 4 *d.* for each Rule or Cause.

Then call for your Declaration of the Defendant's Attorney: If he will not deliver it to you in some few days, and by the time that the Rules to plead are out, (which he will sometimes do, to delay you, and hinder you from signing Judgment, which is to be done on the side of the Declaration;) then  
if

## Of Pleas.

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if you have a true Copy, as I directed before, you may have Judgment for want of a Plea signed on that Copy; but if you did not keep a Copy, you may summon the Defendant's Attorney before a Judge, to compel him to redeliver you your Declaration. K's Bench.

You must also remember to call on him for a Plea, before the Rules for Pleading are out; and it is a usual and good way to demand such Declaration and Plea by a Note in this manner:

Trin Anno 12<sup>o</sup> Willi tertij (Et.)

A. { Mr. Cunningham Def. petit Pari  
B. { & Respons.

You may search the Clerk of the Papers, Plea-Books, the fourth or fifth day of the Term, to see whether the Defendant hath not put in a Plea in Abatement, or in Bar, and so the Plaintiff's Attorney may lose four or five days in waiting for a Plea till his Rules are out, if he do not search.

## Of Pleas.

**P**Leas are either General or Special.

A General Plea is pleaded commonly on the Side of the Declaration; or now, because of the Stamp, on a little piece of 2 d. stamped Paper, without Counsel's Hand, only the Defendant's Attorney's Name to it, and he pays the Plaintiff's Attorney for entering it; as in Case thus:

Ks Bench. *Non assumpsit p J. C. fol 16 d. [ or non  
Cut, Non est fact, Nil debet, &c. as the case  
is. ]*

Special Pleadings are drawn up in Form, setting forth the matter pleaded at large, with an apt Conclusion to the Declaration, or to the Action, as the Case is, and must be signed by Counsel, or else cannot be received.

They are generally of two sorts : Pleas in Abatement, which we may call Temporary ; for they do not go to destroy the Action, but only stop it for a time until the Obstacle pleaded be removed.

As to plead, That the Plaintiff is Excommunicated, or is Outlawed ; that doth not destroy the Action, but only suspend it till the Plaintiff take off his Excommunication, or reverse his Outlawry, and then he may proceed in his Action.

Or, That the Plaintiff is an Alien Enemy ; for he may be made a free Denizen or Naturalized, and then the Obstacle is removed.

A Misnomer of the Defendant's Christian or Surname, or naming him Executor, when he is Administrator, the Plaintiff may bring a new Action without paying Costs by the right Name, or as Administrator.

Of Pleas  
in Abate-  
ment.

Pleas in abatement are very various: For Instance, To the Name, the Addition, Death, Covert-Baron, one of the Executors or Administrators not named, Infancy in Plaintiff or Defendant, (tho' Infancy in the Defendant may also be given in Evidence

at

at the Trial, and will Nonsuit the Plaintiff, <sup>K's Bench.</sup> tho' not pleaded ) other Actions depending ; Privilege, That the Defendant is an Attorney of the *Common-Pleas*, and ought not to be sued in the *King's-Bench*, ( Except the Plaintiff be an Attorney of the *King's-Bench* ) and the like.

Whereof in *Townsend's Tables* you will find References to good Precedents, and also in other Precedent-Books since published. Those Pleas are very often meerly dilatory, and to gain time ; and the Defendant's Attorney must be cautious how he rejoyns to the Plaintiff's Replication : For if he joyns Issue, and it be found against him, the Judgment is final. The usual way is to demur to the Replication, and then the Judgment can be but a *Respondeas Ouster* ; that is, That the Defendant shall plead another Plea, which may be either Special or General.

Cautious  
for Defendant.

Demurrer.

A Plea in Abatement must conclude to the Declaration ; as, *Et hoc paratus est verificare unde per Iudic de Bill ( or Part ) p̄s & q̄s Billa illa cassetur.*

Or, if the Plaintiff be an alien Enemy, *Unde per Iudic si p̄dice A. ( the Plaintiff ) ad Billam p̄s respond debeat, &c.*

It may not be amiss to insert one President for our Young Clerk's Instruction.

*Misnosmer*



*Misnamer of the Surname.*

Et p̄dice Carolus p̄ Jacobo Cunnig-  
ham Attornae suum venit & defendit vim  
& injur, &c. (but you must not put quando,  
as in Pleas in Bar) Et per Judic de billa  
p̄dict quia dic qđ ip̄s p̄dict Carolus no-  
minatur & vocatur p̄ nomen Caroli Dol-  
son ac p̄ eadem nomen & cognomen a tem-  
pore Paribitatis sue hucusq; semper cogd  
& vocat fuit & non p̄ nōen Car Dodson  
put in billa p̄dice superius noiatur Et  
hoc parat est verificare Unde per Judic  
de billa p̄dict & qđ billa illa cassetur.

E. F

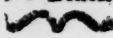
*The Replication.*

Et p̄dice A. B. dic qđ p̄ aliqua p̄ p̄dict  
Carolus superius p̄litando allegat billa  
sua p̄dice cassari non debet quia dic qđ  
idem Carolus noiatur & vocatur & die ex-  
hibitionis bille p̄dice nominat & vocat fuit  
tam p̄ nomen Caroli Dodson quam per  
nomen Caroli Dolson Et hoc per qđ in-  
quiratur p̄ patriam, &c.

G. H.

See more of these Pleas in Abatement, and  
Pleas in Bar in the Method of Pleading, al's  
the Third Part of *Instructor Clericalis*.

Pleas

Pleas in Bar destroy the Plaintiff's Action *K's Bench.* for ever; as if the Defendant pleads a General Release. 

And as a Plea in Abatement concludes to the Declaration, so in Bar it must conclude to the Action; as, *Et hoc parat est officare unde per Iudic si p'dice A. B. Acton luam p'dice inde & lus eum here seu manutenere debeat, &c.*

E. F.

Special Pleas are left with the Clerks of the Papers (*viz.*) either with Mr. *Bains* or Mr. *Stone*. Therefore when for the Plaintiff, you must take a Copy from the Clerk of the Papers of such Special Plea or Demurrer, for which you pay 6 *d.* a Sheet, and put in your Replication, and carry your Declaration to him, and he will make up the Paper-book, or rather make it up your self Copy-wise, and let him peruse it, and he is paid 9 *d. per Fol.* and he writes a Rule on the Side of the Book, That if the Defendant do not receive the Paper-Book, and return it to be entred in four days, then a *Non ps'* may be entred.

You are to deliver this Paper-Book to the Defendant's Attorney, and call for it at the end of the four Days, and he must pay you for Entring his VVarrant of Attorney, and 9 *d. per Fol.* for his Plea and other his Pleadings, as *Rejoynder*, &c. if there be any, and then give him Notice of Trial.

Intrae

## Intrac Non p̄s ad Barram.

Continue  
the *Postea*,  
as in o-  
thers *usque*.

**Q**ui ad veritatem de infracontene dicendū  
elece tria & iurac fuer ac ad bar-  
ram huius Cur de veredicto suo de  
& super p̄miss. reddendū inter se coiscandū  
recesser & postea ad eandem barram pro  
veredicto suo in hac parte reddendū reve-  
ner sup quo p̄dict quer solempniter exace  
non veni nec est p̄s billam suam infrascripte  
No', &c.

Entry of a Non p̄s upon an Action by  
Latitat, and Judgment thereupon.

Som̄s ff. A. B. arrestat fuit ad sectam  
C. D. Virtute h̄is Dñi Regis de Latie  
rec coram Dño Rege apud Westm̄ (tli die  
as in the Lac) Anno Regni dicti Dñi Re-  
gis nunc septimo Et p̄dice C. tunc & ibi-  
dem p̄culit in Cur Dñi Regis hic quan-  
dam Billam suam vers̄ p̄s A. in custodi  
Mari, &c. de p̄lito (&c.) quam quidem bil-  
lam idem C. D. vers̄ p̄s A. postea non est  
pros Ideo adjudicantur eidem A. p̄ mis̄  
& custag suis p̄ ibm̄ in hac parte appoie  
40 s. juxta formam Statuti, &c. ut postea  
207.

Note, These Judgments upon Non pros  
must be drawn up, and Costs signed by  
the Master, as in other Judgments, by  
Confession or Non inform̄.

Aliter

Aliter.

ff. A. B. qui tulit Bill suam de plito  
 Cūlgi Elus C. D. comparēd p̄textu h̄is  
 Dñi Regis de Latitat ad sextam ipsius A.  
 B. a Cui Dñi Regis p̄dice emanēd Bil-  
 lam illam non est p̄s Ideo adjudicantur  
 eidem C. p Cui Dñi Regis hic p̄ mis &  
 custag 40 s juxta formam Statut, &c. Et  
 ip̄ & p̄leg sui de pros' scilicet Johes Doe &  
 Ricus Roe in mia, &c. Et p̄dice A. eat  
 inde sine die, &c.

Aliter.

ff. A. B. arrestat ad Sextam R. G. per-  
 sonalie compuit coram Dño Rege apud  
 Westm die . . . . pr' post . . . .  
 Et quia p̄ B. non narrabit versus p̄fac  
 A. B. infra tres dies extunc pr' sequēd  
 Ideo juxta formam Statuti adjudican-  
 tur eidem A. per Cui Dñi Regis 12 s. p̄  
 mis & custag (&c.)

Intrato non p̄s p̄ defectu Replicatōis  
 Quer'.

Et sup hoc p̄ Def. petit qđ Quer' ad  
 plitū ipsius Def. replicaret sup quo dies  
 (as in the Rule that is given) dat est p Cui  
 dice Dñi Regis nunc hic p̄fac Quer' ad  
 replicand ad p̄s plitū p̄ Def. Et dice est  
 eidem Quer' p Cui dice Dñi Regis nunc  
 hic qđ ip̄ ad eundem diē repl Ad qm̄ diem  
 coram

**K's Bench.** coram Dño Rege apud Westm̄ ven̄ p̄dice  
 Def. p̄ Attoz̄ suum p̄ Et p̄ Quer' licet  
 solempniter exacc̄ non venit nec ad p̄litm̄  
 p̄dict Def. replicabit nec est Billam suam  
 p̄d̄ s̄lus eundm̄ Def. ulcius p̄secue Jō  
 cons̄ est p̄ Cui hic qđ p̄dice Quer' ni-  
 ch̄il caperet p̄ Billam suam p̄dice sed qđ  
 ip̄d̄ & p̄leḡ sui de p̄os̄ scriit Jōhes Doe  
 & Ricus Roe sunt in M̄ia Et p̄ Defend̄  
 eat inde sine die &c. Et ulcius cons̄ est  
 qđ p̄dice Def. recuperet vers̄us p̄dice  
 Quer' 3 l. p̄o mis̄ & custagiis suis per  
 ip̄m circa defen̄onem suam p̄ in hac  
 parte sustens̄ eidem Def. per Cur' Dñi  
 Regis nunc hic juxta formam Statuti in  
 hujusmodi casu inde nuper edic̄ & p̄vis̄  
 adjudicac̄ Et idem Def. heat execūonem  
 (&c.)

Intrato Non p̄ p̄ defectu Ghal Exie.

Et de hoc ponit se super patriam Et  
 p̄ Def. per qđ p̄dice Quer' replicaret ad  
 p̄litm̄ ipsius Def. super quo dem̄ est eidm̄  
 quer' p̄ Cur' dice dñi Regis nunc hic qđ ip̄d̄  
 replicaret ad p̄d̄ p̄litm̄ & intraret Exitm̄  
 in p̄litm̄ p̄dice die . . . . p̄ox' post . . . .  
 periculo incumb̄ Postea illo eodem Ter-  
 mino coram dict̄ Dom̄ Rege apud Westm̄  
 ven̄ p̄dice Def. per Attoz̄ suum p̄dict̄  
 Et p̄dice Quer' licet solempn̄ie exacc̄ non  
 ven̄ nec ad p̄litm̄ p̄dice Def. replicabit nec  
 est Billam suam p̄dict̄ s̄lus eundm̄ Def.  
 ulcius p̄secut̄ Jō' (ut sup̄a.)

Intrato



At Intrato Non p̄s super Latitat.

London n. **A**. B. arrestat fuit Virtute  
 hris dñi Regis de La-  
 titat coram ipso Rege emanen Et Die  
 London directe retornabile coram dice dño  
 Rege de Termino Pasche apud Westm  
 die . . . . . p̄or' post . . . . . jam  
 ule p̄terito ad respond C. D. de plito  
 Cūlge Et idem A. B. ad eundem diem  
 per . . . . . Attoꝝ suum secundum for-  
 mam Statuti in hujusmodi casu nuper  
 edic & p̄vis compuit Et p̄fac C. D. in  
 eadem Cur dice dom Regis coram ipso  
 Rege apud Westm per Willam sive Parē  
 suam in aliqua octone personal sive ejetōd  
 firme versus ipm A. B. ante finem Ter-  
 minū sed Trinitatis extunc p̄r sequen  
 existen p̄r terminū post comparenē ipsius  
 A. B. ad lectam C. D. non narrabit  
 Ideo cons' est qđ p̄dice C. D. nil capiat  
 per h̄ebe suum p̄d sed qđ ipse sit in mia  
 Et ulterius cons' est qđ p̄dice A. B. re-  
 cuperet versus p̄dice C. D. 30 s. p̄o mis'  
 & custagiis suis per ipm circa defen-  
 tem suam in hac parte sustenē eidm A. B.  
 per Cur dice dom Regis nunc hic juxta  
 formam Statuti in hujusmodi casu nuper  
 edic & p̄vis adjudicat Et p̄dice A. B.  
 heat executōem,

Non



Non pros' s'us Quer in debito post De-  
murrer juncce & custag pro Def.

Ad quem diem ven in Cur' hic pdice  
Def. per Attornd suum pdice Et pdice  
Quer quarto die pliti solemniter exace  
non ven nec est ulterius prosecue Billam  
suam pdice Jo ipd & pleg sui de prole-  
quend sint in M'ia, &c. Et pdict Def. eat  
inde sine die &c. Cons' est etiam qd  
pdice Def. recuperet versus p'lat Quer'  
dampna sua octone p'miss. ad  
eidem Def. ad requisiconem suam p mis'  
& custag suis in ea parte sustene secundm  
formam Statuti inde nuper edic & p'bis'  
p Cur' hic adjudicar (&c. ut in al.)

Quer' nolle p'sequi post Exie juncce.

Postea scit quinto die . . . . Anno  
(&c.) ven hic in Cur' pdice Quer' p At-  
tornd suum pdice & fatetur se hic in Cur'  
ulterius nolle prosequi s'us p'lat Def. in  
plito pdict Ideo idem Def. eat inde sine  
die (&c.)

## Of Issues.

Non Assump̃s by one Defendant, and  
Non Inform̃ by another the same Term  
of the Part.

**E**t p̃dice A. B. per C. D. Attoꝝ suū  
veñ & defens̃ vim & injuri quando, &c.  
Et idem A. dicit qđ ip̃e Non assumpsit  
super se modo & forma put p̃dic J. su-  
perius plus eum queritur Et de hoc  
poñ se super Priam Et p̃dice J. filie  
(&c.) Et super hoc p̃dice J. per qđ p̃dice  
C. ad Parr suam p̃dice filie respons̃  
super quo idem Attoꝝ p̃dice C. dic̃ qđ ip̃e  
Non est inform̃ p̃ p̃dice C. de aliquo re-  
spons̃ inde eidem J. in p̃miss. dand̃ nec  
aliquid aliud dic̃ in barram sive p̃clusionē  
Actionis ipsius J. p̃dice per quod idem  
J. remañ inde vers̃ eund̃ C. in defens̃ —  
Ob quod p̃ J. dampna sua s̃s p̃fiae C.  
oc̃tione non performatōd p̃missionē &  
assumptōd p̃dice C. p̃dice recuperare de-  
beat, &c. Sed quia Cui dice Dom̃ Regis  
coꝝam ip̃o Rege incogñ existit que dampna  
p̃ J. oc̃tione ill̃ sustinuit Ideo tñ quoad  
triañs exie p̃dice inter p̃fiae J. & p̃dice  
A. superius in forma p̃dice junc̃e qm̃  
quoad inquirens que dampna p̃dic J.  
sustinuit tñ oc̃tione non performatōd p̃-  
missionē & assumptōd ill̃ quam pro mis̃ &  
custag̃ suis p̃ ip̃m circa sextam suam in  
hac parte appoie veñ inde Jui coꝝam Dño  
Rege apud Westm̃ (&c. ut in al.)

P

Cogñ

R's Bench.



Cognitio Acton p pare & Nil debet p priam  
for the residue.

Quando (&c.) Et quoad 5 l. de pcedice  
15 l. quas pdice Quer' superius exigit  
versus eum virtute Bille pdice idem Def.  
dic' qd ipd non potest dedicere actonem  
pdice quer' nec quin Billam illam sit fa-  
ctum ipsius Def. nec quin ipd debeat pfac  
quer' eadem 5 l. modo & forma put idem  
quer' superius versus eum inde Narra-  
bit Ideo cons' est qd pdice quer' recuperet  
vers' pfac Def. eadem 5 l. Et pdice Def.  
in mia, &c. Et quoad pdice 10 l. de p  
15 l. resid' quas pdice quer' superius ex  
compō exigit versus eum idem Def. dic'  
qd ipd non debet pfac quer' eadem 10 l.  
nec aliquem inde denar' modo & forma  
(&c.) Et de hoc pon' (&c.) Et quia con-  
ueniens & necesse est qd unica fiat taxa-  
tio dampnorum p uno integro debo pdice si  
conting' Iudiciū de pdice 10 l. quas idem  
quer' superius ex Compō exigit vers' pfac  
Def. eidem quer' reddi Ideo cesset taxa-  
tio dampni ill' quousq' pdice plic' de eisdem  
10 l. inter partes pdice terminetur &c.  
Et quoad trians erit pdice pcepte est Dic  
quoad Venire fac (&c.)

In

Non assumpsit infra sex annos.

Et modo (Et.) Et dic qđ pdice A. ac-  
 cord suam pdice inde versus eum here seu  
 manutenere non debet quia dic pdice A.  
 . . . . die . . . . Anno Regni dicti  
 Dom Regis nunc . . . . Willam suam  
 pdice versus ipm C. exhibuit quodqđ ipse  
 idem C. ad aliquod tempus infra sex an-  
 nos pr' ante diem exhibicođ Wille pdice  
 Non assumpsit super se modo & forma put  
 pdice A. superius inde versus eum nar-  
 rabit Et hoc parat est verificare Unde  
 per iudicium si pdice A. Actionem suam  
 pdice inde versus eum habere seu manu-  
 tenere debeat (Et.)

Replication.

Et pdice A. dicit qđ ipse per aliqua p  
 pdice C. superius plitanda allegat ab  
 Actione sua pdice inde versus eum habend  
 pcludi non debet quia dic qđ dice C. in-  
 fra sex annos assumpsit super se modo &  
 forma put pdice A. superius vers ipm  
 B. narrabit Et hoc petit qđ inquiretur  
 p priam Et pdice C. filie. Ihes ved  
 inde iur (Et.)



## Plene administrabit.

Et modo (Ec.) actionem non (Ec.) quia die qđ ipđ tempore exhibitiōn hille pđice plene administrabit oia bona & catalla que fuer pđice J. tempore mortis sue in manibus suis administrand p qđ pđice C. debum suum pđ pfac A. solvere non potuit Et hoc parat est trificare Unde (Ec.)

## Replication.

Et pđice A. (pcludi non, Ec.) quia die qđ pđice C. habet & tempore exhibitiōn hille pđice videt (tali die & anno) apud (Ec.) huit diversa bona & catalla que fuer pđice J. [Testatoris] tempore mortis sue in manibus suis administrand ad valene (Ec.) unde idem A. de debo pđice satil facere potuit videt apud S. in Com pđice Et hoc petit qđ inquiratur p priam Et pđice C. filie, Ec. Ideo ven (Ec.)

## Non dimisit.

Et modo (Ec.) Et idem C. defend vim & injur quando (Ec.) & dicit qđ pđice A. non dimisit eidem C. meluagium sive ten- tum pđice & cetera pmissa cum pertiō modo & forma put pđice A. superius verā eum queritur Et de hoc pon se super pri- am Et pđice A. filie, Ec. Ideo (Ec.)

Non

Non detinet p Patriam.

Et modo (Ec.) Et idem C. defend vim  
& injur quando (Ec.) Et dic qd ipse non  
detinet pfac A. bona & catalla pdice in  
Pari pdice specificae nec aliquam inde  
parcellam modo & forma put pdice A.  
superius plus eum queritur Et de hoc  
pon se super Priam Et pd A filie, Ec. Jo  
(Ec.)

Nil debet p legem.

Et modo (Ec.) defend vim & injur  
quando, Ec. Et dic qd ipse non debet pfac  
A. pdice 20 l. nec aliquem inde denar mo-  
do & forma put pdice A. superius vers  
eum queritur Et hoc paratus est defen-  
dere contra ipm & lectam suam qualiter-  
cunq; Cur dec Dom Regis nunc hic consi-  
deraverit (Ec.) Et super hoc dict est pfac  
C. p Cui dicit Dom Regis qd ven cum le-  
ge suade duodecim manu coram Dno Rege  
apud Westm die . . . . pr' post . . . .  
ad perficiend legem suam pleg de lege  
Johes Doe & Ricus Roe idem dies dae  
est partibus pdice ibm, Ec. Ad quem  
diem coram Dno Rege apud Westm veni-  
tam pdice A. p Attorū suum pdice quam  
ps C. in ppr person sua Ideo super hoc  
perfecit inde legem suam de duodecim ma-  
nu Jo considerae qd dñs A. nihil ca-  
piat per Billam suam pdice sed pro falso  
clamoze suo sit in mia Et dñs C. cat inde  
sine die (Ec.)

To wage Law is to put in Security, that he will make Law at the day signed. And to make Law, is to take an Oath, that he oweth not the Debt nor any Peny thereof in Manner and Form as the Plaintiff declared.


This Wager of Law is allowed where a Debt is demanded without Deed or Specialty; and if the Defendant do wage his Law, and the Plaintiff stand to it, the Plaintiff is for ever barred of his Debt: But if the Defendant be ready, and the Plaintiff will not stand to it, but be Non-suit and pay Costs, then he may bring another Action, as Case, to which the Defendant cannot wage his Law. See *Compleat Attorney* 72. See *Compleat Solicitor* 249, 250, and 237.

For when and for what, See *Touchstone of Presidents*, 294. 316.

The Defendant may wage his Law to a Book-debt, or upon a *Mutuatug*, upon an *Insimul computasset*, and in Detinue. Also in an Action of Debt upon an Arbitrament, or in Action of Detinue by the Bailment of anothers Hand. But in no Case where a Contempt, Trespass, Deceit, or Injury is supposed, shall he wage his Law, because in such Case the Law will not trust him with an Oath.

In an Action of Debt for an Amerciament in a Court Baron, he may wage; but not in Debt for a Fine or Amerciament in a Court Leet, nor in Case upon *Assumpsit*. See 4 Co. 92. *Slades Case*.

Nor

Nor in Trover, which is the reason more <sup>K's Bench.</sup>  
 Actions of Trover than Detinue are brought. 

Note, It's said the Defendant cannot be admitted to wage Law *instante* after Imparlance, but before he may, and then the Plaintiff cannot be Non-suited, if the Defendant perfect his Law: But if he wage Law after Imparlance, the Plaintiff may be Non-suited, *Compleat Solicitor* 337.

If the Defendant fails in his Law, then say,

Ad quem diem coram Dño Rege apud Westm̄ vend p̄dice A. per Attor̄m suū p̄ces Et p̄dice C. licet ad eund̄ diem solempniter exace non vend sed defale fec̄ Ideo concess̄ est qđ p̄s A. recuperet versus p̄fat̄ B. debm suū p̄dice necnon 20s. p̄ dampn̄, &c. (as in Judgment by default.)

Comperuit ad diem to a Bail-bond.

Et modo ( &c. ) Defend̄ vim & injur quando ( &c. ) Et per auditū Scripti Obligatorij p̄s Et ei legitur, &c. per etiam auditum Condition̄ ejusdem Scripti Et ei legit̄ in hec verba, scilt, ( the Condition (&c. ) Quibus lectis & auditis idem C. dic̄ qđ p̄s A. Acton suam p̄dice inde versus eū here seu manutenere non debet Quia dic̄ qđ post conferēd̄ Scripti Obligatorij p̄dice & ante diem exhibicōd̄ Bille p̄s ipsius A. scilicet die ( &c. ) comperēd̄ p̄ sequēd̄ post dāc̄ Scribe Obligatorij p̄dice p̄dice C. comperuit coram dice Dño Rege

K's Bench.

nunc ad respondē p̄fac̄ A. in plito debiti  
p̄ s̄dm̄ formam & effectum Condicion  
Scrip̄ Obligatoz̄ij p̄dīce Et hoc parat  
est verificare per Recor̄d̄ Ballij inde in  
Cur̄ dic̄ Dñi Regis nunc coram ipso Re-  
ge apud Westm̄ p̄d̄ remanend̄ unde per ju-  
dic̄ si p̄dīce A. Acton, (Et.)

## Aliter in Transge.

Acton non quia dic̄ qđ ipse comperuit  
coram Dño Rege apud Westm̄ p̄d̄ p̄dicto die  
(Et.) ad rōnd̄ p̄fac̄ A. in Condicion p̄d̄ su-  
perius nominat̄ de p̄d̄ plito transge secun-  
dum formam & effectum Condicion illi Cujus  
quidm̄ C. comperent̄ dic̄ Cur̄ dice Dñi  
Regis coram ipso Rege apud Westm̄ ad-  
tunc & ibim̄ recordabatur put p̄ Recor̄d̄ inde  
in eadem Cur̄ ipsius Dñi Regis coram  
ipso Rege apud Westm̄ p̄dīce residend̄ li-  
quet manifeste Et hoc parat est verificare  
p̄ Recor̄d̄ illi (unde si Acton, Et.)

## Replication.

Precludi non quia dic̄ qđ non hēt̄ t̄le  
Recordum Comparent̄ p̄d̄ C. fac̄ coram  
dño Dño Rege apud Westm̄ p̄d̄ die (Et.) in  
eadem Cur̄ dice Dñi Regis coram ipso  
Dño Rege apud Westm̄ p̄dīct̄ remanend̄  
qual̄ ipse p̄d̄ C. superius allegabit Et hoc  
(Et.) unde per̄ judiciū & debm̄ suū [if  
in Debt] unacūq̄ damnis suis octōne deten-  
zon̄ debi illi sibi adjudicari, Et.

In



In Trespals and Case.

Unde per Iudiciū & dampna sua occōne  
transgē p̄d ( occōne p̄misiſſ ) sibi adjudi-  
cari, &c.

Rejoynder.

Et p̄dice C. dic qđ herē ( the Record )  
comperent ipsius C. face coram ipso Dño  
Rege apud Westm̄ p̄dice die (&c.) in p̄d  
Cui dice Dñi Regis coram ipso Rege a-  
pud Westm̄ p̄dice reman̄ qual ip̄d supe-  
rius allegavit Et hoc parat est verificare  
per Recoꝝ ill, &c. Ideo p̄cepte est eidm̄  
C. qđ heat hic (tali die) Recoꝝdum ill sub  
suo periculo, &c.

Conditions performed to a Bond.

Et modo (&c.) Et per (&c.) Quibus  
icis (&c.) Actionē non quia dic qđ ip̄d idem  
C. in & super p̄m̄d diem Maij in con-  
diçionē p̄dice superius spec solvit p̄fate A.  
p̄dice 201. in eadem Conditione superius  
mençonae quas ei ad eundem diem solvisse  
debuit secundum formam & effectum dice  
Conditionē videt apud (&c.) Et hoc parat  
est verificare unde per (&c.)

Quer (p̄cludi non) Quia dic qđ p̄d C.  
super p̄d p̄m̄d diem Maij superius men-  
çonae non solvit p̄fate A. 201. p̄dicta in  
Conditionē p̄d superius mençonae scdm  
formam & effectum Conditionē p̄d modo &  
forma p̄out p̄dicta C. superius placitando  
alle-

Repl.

**R's Bench.** allegabit Et hoc per qd' inquirat per patriam Et p's A. s'it Ideo ven' (Ec.)

### Infra Etas.

Et modo (Ec.) Acton non quia dic' qd' ip'e idem C. tempore confecton' Scribe obl' p'dice fuit infra etatem viginti & un' annorum [ viz. Etas 17 annorum & non amplius ] Et hoc (Ec.) Unde (Ec.)

Repl. Quer' (p'cludi non) quia dic' qd' p's C. tempore confecton' Scribe obligatoz' p'd fuit plen' etatis viginti & un' annoz. modo & forma put' p's C. superius p'titendo allegabit Et hoc per qd' inquirat p' patriam Et p'dice C. similis, (Ec.) Ideo (Ec.)

### Per Dures.

Et modo (Ec.) Et dic' qd' ip'e de bebo p'd virtute Script' p'dice onerari non debet quia dic' qd' ipse tempore confecton' Scripti p'dic' fuit impzisonae p' p'dice A. & al' de robina sua videt' apud B. in Com' p'dice & ibidem in Pzisona detene quousq' idem C. per vim & duritiam impzisonamenti ill' scribe illud p'fat' A. adtunc & ibm fecit sigillabit & ut factum suum eidem A. delibabit Et hoc (Ec.) unde p'ec' judic' si ip'e de bebo p'd' virtute Scribe obl' p'dice onerari debeat, Ec.

Repl. (P'cludi non) quia dic' qd' p's C. tempore confecton' scripti p'd fuit sui juris ad largum & extra quamlibet pzisona & scribe illud ex mera & spontanea voluntate

rate sua eidem A. fecit sigillabit & ut factum suum delibbit & non per vim & duritiam imprisonmenti prout pd' C. superius plitando allegabit Et hoc per qd inquirat per patriam Et pdice C. scilicet (Et.) Ideo (Et.)

## Per minas.

Quando (Et.) (Acton non) Quia die qd pdice A. tempore confecton scripe obf pd' eidem C. tales & tane minas de vita sua & mutilacon membroꝝ suoꝝ sibi inferend' nisi ipd scripe pdice pfat quer facere & sigillare vellet apud C. pd' imposuit qd idem C. Scriptum pcedice ob metum minarum illi pfat A. adtunc & ibm fecit Et hoc (Et.) Unde (Et.)

Repl. (Precludi non) quia die qd pdice C. tempore confecton scripe pd' fuit sui juris ad largum & scriptum illud ex mera & spontanea voluntat sua eidem A. adtunc & ibm fecit & non ob metum minarum prout pd' C. superius plitando allegabit Et hoc per qd inquirat p patriam (Et.)

## - Son Assault Demesne.

Et modo (Et.) Defend' vim & injuriam quando (Et.) Et quoad venire vi & armis seu quicquid quod est contra pacem dice Dñi Regis nunc dicit qd ipd non est inde culpabilis Et de hoc ponit se super patriam Et pd' A. silit, Et. Et quoad resid' transg pd' superius fieri supposie idem C. die qd

qd pdice A. Acton suam pd' inde versus eum here seu manutenerere non debet quia die qd pd' A. die & anno supradice in Narr pd' superius specificat apud C. pdice in Com' pd' Vi & armis in ipm C. insule fecit & ipm C. adtunc & ibm verbasse bulnasse & maletractasse voluisset nisi idem C. seipm erga prefat A. adtunc & ibm citius defendisset Et sic idem C. die qd malum vel dampnum si quod eidem A. adtunc & ibm evenit hoc fuit de insule ipsius A. propi Et in defension ipsius C. Et hoc (Ec.) Unde (Ec.)

Repl. Et pd' A. die qd ipd' (precludi non) Ec. quia die qd pd' C. de injuria sua propi & absq' tali Causa per ipm C. superius plitando allegat in ipm A. insule fecit & ipm A. verbavit bulnabit & maletractabit modo & forma put pdice A. superius usus ei querite Et hoc per (Ec.) Ideo veni (Ec.)

Non damnificatus pleaded to a Counter-Bond.

Et modo (Ec.) Defend vim & injuriam quando, Ec. Et per auditu scribe obl pd' Et ei legit, Ec. per etiam audie Condition ejuldem scribe Et ei legit in hec verba The Condition. (Ec.) Quibus lcis & auditis idem C. die qd pdice A. nunquam fuit damnificat orzone pd' scribe obl Et hoc (Ec.) Unde (Ec.)

Aliter. Quib' lcis & auditis idem C. die qd ipd' idem C. tempore confectionis scribe obl pd' hucusq' salvavisset & indempn conserbasset

seruasset & indemnificabillet p' A. ab om-  
 nibus turbacionibus Anglice troubles lecc  
 inconuenient dampnis & molestacionibus  
 oratione scripe obligatoz ij p'd' [ or otherwise  
 against such and such Persons or Things as  
 in the Condition expressed. ] Et hoc (Ec.)  
 Unde (Ec.)

Quer (precludi non) debet quia die qd  
 p'd' C. super diem (ec.) superius mentio-  
 nae non solvit, Ec.

Or otherwise shewsh how he was damnified,  
 or that the first Obligee minabatur & cona-  
 batur Arrestare ipsum Quer p' denariis p'  
 quod (quer) illos ei solvit Et sic damni-  
 ficat, Ec. [as the Case requires. ]

#### De unguibus Executor.

Et modo, (Ec.) Acton non quia die qd  
 ipd idem C. nunquam fuit Execue Testa-  
 menti p'dice J. S. nuper defuncte nec ali-  
 qua Bona sive Catalla ipsius J. ut Exe-  
 cutor Testamenti ejusdem unquam admi-  
 nistrabit Et hoc (ec.) Unde (Ec.)

#### De unguibus Administrator.

Acton non quia die qd Administratio  
 Bonorum & Catallorum p'dice que fuer'  
 p'd J. tempore mortis sue eidem C. per  
 prefat Archiepm Cane nunquam comissa  
 fuit Et hoc (Ec.) Unde (Ec.)

Repl



Repl ad ne unques Executors.

(Precludi non) quia dic qd dice C. di-  
bers Bona & Catalla que fuer dic J. S.  
tempore mortis sue post mortem ipsius J.  
ut Executor Testamti ejuldem J. videt  
apud R. in Com predict administrabit Et  
hoc per qd inquirat per Priam Et pdice  
C. similie, &c. Ideo veni (&c.)

Repl ad ne unques Administrator.

(Precludi non) quia dic qd Administra-  
tio omnium & singulorum Bonorum &  
Catalloꝝ que fuer dic J. S. tempore mor-  
tis sue p pdice Archiepm Cant apud L.  
plac C. comissa fuit prout ipd p Pari-  
snam pdice superius supponit Et hoc petit  
(&c.)

Riens p discent pleaded by an Heir.

Et modo (&c.) defend vim & injur quan-  
do. &c. Et dic qd ipd de debito pd ut filius  
& heres pd J. S. gen patris sui onerari  
non debet quia protestando qd scriptu pd  
non est factum pd J. pro plito dicit qd ipd  
non het aliqua terras seu tenita p discens  
hereditari de pd J. S. pdice patre suo in  
feodo simplici nehuic die exhibicionis Bill  
pdice nec unquam postea Et hoc parat est  
verificare unde per Judic si de debo pd ut  
fil & heres pd J. S. pris sui virtute scri-  
pti pdice onari debeat, &c.

Repl.

Repl. Quer (precludi non) quia die qd die K's Bench.  
exhibitionis Wille ipsius A. pd' scilicet  
(tali die & anno) pdice C. huit terras &  
tenita sufficien per descensum hereditat de  
pd' J. patre suo in feodo simplici unde  
eidem A. satisfecisse potuit videt apud  
N. in Com A. Et hoc petit qd inquirat  
per patriam Et pdice C. similiter Ideo ven  
inde Jur coram Dno Rege apud Westm  
die . . . . . p'or' post . . . . . Et  
qui nec, &c. ad recogn, &c. quia tam, &c.  
idem dies dar est partibus p'dice ibm  
&c.

After a Tryal and Verdict, the Postea  
must be continued on the Roll after this  
manner.

In Case.

Postea continuat' inde process' inter par-  
tes pd' de placito pdice p Jur' possit inde  
ine eas in resp'm coram Dno Rege apud  
Westm usque diem Mercurij p'or' post  
tres septimanas Sed Michis extunc p'or'  
sequen nisi Justic dia' Dni Regis ad  
Assas in Com pd' capiend assign prius  
die Lune quinto die Augusti apud Civi-  
Wellen in Com pd' p formam Statuti,  
&c. ven p defcu jur', &c. Ad quem diem  
coram Dno Rege apud Westm ven pdice  
A. p Altoz suum pd' Et prefat Justic  
Dni Regis ad Assas coram quo mis  
hic record' sud coram eo hic in nec ver-  
ba. N. Postea die & loco infra contene,  
&c. [ason the Postea to the end] Ideo con-  
sideratum est qd p'dice A. recuperet ver-  
sus

The Judg-  
ment in  
Case a-  
gainst De-  
fendant.

K's Bench.

~  
 sus p̄fiae C. dampna sua p̄dice ad 100 l.  
 p̄ Jur̄ p̄s in forma p̄s assels̄ nec non 5 l.  
 eidem A. ad requisitionem suam p̄ mis̄ &  
 custaḡ suis p̄dicte p̄ Cur̄ hic de inc̄o ad-  
 judicat̄ que quidam dampna in toto se at-  
 tinḡ ad 105 l. Et p̄s C. in M̄ia, &c.

Judgment in Debt against Defendant.

Ideo cons̄ est q̄d p̄dice A. recuperet ver-  
 sus p̄fiae C. debm suum p̄dice ac dampna  
 p̄s p̄ Jur̄ p̄s in forma p̄s assels̄ nec non  
 4 l. pro mis̄ & custaḡ suis p̄dicte eidem A.  
 per Cur̄ dice Dñi Regis nunc hic ex as-  
 sensu de inc̄o adjudicat̄ que quidm̄ dam-  
 pna in toto attingunt ad 50 l. Et p̄dice C.  
 capiat̄, &c.

If Satisfaction be hereupon acknowledged,  
 you enter thus :

Postea scilicet die . . . . . p̄or' poss̄  
 . . . . . Anno Regni Dom̄ Willi tertij  
 nunc Regis Angl, &c. coram Dom̄ Rege  
 apud Westm̄ veni p̄dicte A. per J. S.  
 Ale suum p̄ Cur̄ dic̄ Dñi Regis nunc hic  
 specialie constitut̄ & cogn̄ se esse satisfac̄  
 p̄ p̄s C. de debito & dampn̄ p̄dict̄ Ideo  
 idem C. de debito & dampn̄ p̄dict̄ sit inde-  
 quies, &c.

If Judgment be against the Plaintiff, then  
 thus :

Judgment

## Judgment against Palaintiff.

Ideo cons̄ est qd' p̄dict' D. nil capiat p̄  
 Billam suam s̄lus p̄fat' C. sed qd' ipse &  
 p̄leg' sui de p̄s scit J. Doe & R. Roe sint  
 in mia, &c. Et p̄fat' C. eat inde sine  
 die, &c. Et ultius cons̄ est qd' p̄d' C. recu-  
 peret vers' p̄fat' A. 6l. 10s. p̄ mis' &  
 custag' suis per ipm̄ circa defensionē suam  
 in hac parte sustent' eidem C. per Cur'  
 dict' dñd' Regis nunc hic ex assensu suo  
 iuxta formam Statut' in humod' casu nup  
 edit' & p̄bis adjudicat' Et p̄dict' C. heat  
 inde executionem, (&c.)

See before among the *Postea's*.

*Of Demurrers.*

## A General Demurrer to a Declaration.

**E**t modo ad hunc diem scit diem Mer-  
 curij p̄r' post tres Septiduas sed  
 Nichis isto eodem Termino usq' quem  
 diem p̄dict' C. hui' licenc' ad billa p̄dicte  
 interloquend' & tunc ad respond', &c. coram  
 dñō Rege apud Westm̄ vñ tam p̄dict' A.  
 per Attorē suū p̄d' qm̄ p̄d' C. per J. S.  
 Att' suū Et idem C. defend' vñ & injur'  
 qñdo, &c. Erpet Judic' de Parr' p̄d' quia dic'  
 qd' Parr' p̄d' materiag' in ead' content' mi-  
 nus sufficiē in lege existunt ad actionem  
 ipsius A. s̄lus ipm̄ C. hend' manutenend'  
 ad quam idem C. necesse non habet nec p̄  
 legem terre tenetur aliquo modo respon-  
 dere. Et hoc parat' verificare Unde p̄  
 defeau

Demurrers.

R. Bench.

defectu sufficiend' Narr' in hac parte idem  
C. pet' Judicium de Narr' ill' Et qd' Narr'  
ill' cassetur, (Ec).

• The Plaintiff joyns in a Demurrer.

Et p'dict' A. dicit qd' per aliqua palle-  
gat' Narr' ipsius A. p'd' cassari m'd' debet  
quia dicit qd' Narr' p'dict' materiaq; in  
eadem content' bon' & sufficiend' in lege  
existant ad p'dict' actionem ipsius A. sicut  
ipm' C. manutenend' quam quidem Nar-  
rationem materiamq; in ead' content' idem  
A. parat' est sificare ac pbare put' Cur'  
&c. Et quia p'dict' C. ad Narratōem ill'  
non respond' nec ill' hucusq; aliqualit' de-  
dic' idem A. pet' judiciū & dampna sua  
actione \* p'miss. sibi adjudicari (Ec.)

Or thus in Debt.

\* ——— pet' judiciū & debum suum p'd'  
unacum dampnis suis actione detentōem  
debi ill' sibi adjudicari.

In Trespass.

——— pet' judiciū & dampna sua actione  
Cōsgr' p'dice' sibi adjudicari.

In Assault.

——— pet' judiciū & dampna sua actione  
Cōsgr' & insulte p'dict' sibi adjudicari.

Demurrer



Demurrer to a Plea or Bar by the  
Plaintiff.

Et p̄dice A. dic' qd' ip̄e p aliqua per  
p̄dice C. superius p̄litando allegat ab ac-  
tione sua p̄dice inde s̄lus ip̄m C. hēd'  
p̄cludi non debet quia dic' qd' p̄litum p̄d'  
p ip̄m C. modo & forma p̄dict' superius  
p̄litat materiaq; in eodem content' minus  
sufficiēd in lege existunt ad ip̄m A. ab  
actione sua p̄dic' inde s̄lus p̄fat' C. habend'  
p̄cludend' Ad qd' ip̄e idem A. necesse non  
hēt nec per legem terre tenetur aliquo  
modo respondere Et hoc parat' est s̄ficare  
unde p defectu sufficiēd respons' in hac  
parte ip̄e idem A. per' iudiciū & dampna  
sua ockone p̄miss. sibi adjudicari &c.

In Trespass.

— petit iudiciū & dampna sua ockone  
C̄nsḡr p̄dict' sibi adjudicari.

— ockone C̄nsḡr & Insult' p̄dict', &c.

In Debt.

— petit iudiciū & debitū suū p̄dict'  
unacum dampnis suis ockone detentōis  
debi illi sibi adjudicari &c.

Q 2

Defendant

## Demurrers.

Defendant joyns in Demurrer.

Et p̄dict' C. dicit qd' p̄litū p̄dict' per  
ipm C. modo & forma p̄dict' superius p̄li-  
tat' materiaq; in eodem content' bonū &  
sufficiē in lege existunt ad p̄dict' A. ab  
actōne sua p̄dict' inde vers' ipm C. hend'  
p̄cludend' quod quidm placitū materiaq;  
in eod' content' ip̄d idem C. parat' est veri-  
ficare & p̄bare prout Cur' &c. Et quia  
p̄dict' A. ad placitū ill' non respond' nec  
ill' hucusq; aliqualit' dedit ip̄d idem C.  
ut prius per' judiciū Et qd' p̄dict' A. ab  
actōne sua p̄dict' inde s̄lus ipm habend'  
p̄cludatur &c.

Demurrer by the Defendant to the Plaintiffs  
Replication.

Et p̄dict' D. dicit qd' placitū p̄dict' per  
ipm G. modo & forma p̄dict' superius re-  
plicando p̄stat' materiaq; in eodem content'  
minus sufficiē in lege existunt ad ipm  
G. ad actōnem suam p̄dict' inde vers' ipm  
D. hend' manutenend' ad quod idem D.  
necesse non habet nec per legem terre tene-  
tur aliquo modo respondere. Et hoc parat'  
est s̄ficare unde p̄ defectu sufficiē Repli-  
cationis in hac parte idem D. ut prius per'  
judiciū Et qd' p̄dict' G. ab actōne sua  
p̄dict' inde s̄lus ipm D. hend' p̄cludatur,  
&c.

Plaintiff

## Plaintiff Rejoyns.

Et p̄dice G. dicit qd' p̄litum p̄dice per  
ipm̄ G. modo & forma p̄dice superius repli-  
cando p̄litat materiaq; in eodem contene  
bon & sufficiend in lege existunt ad ipm̄  
G. ad ac̄onem ipius G. p̄dice inde p̄lus  
ipm̄ D. hend' manutenend qd' quidm̄ pla-  
citur materiaq; in eod' contene idem G.  
parat' est verificare & p̄bare put Cue &c.  
Et quia p̄dict D. ad placitum ill. non  
respond nec ill hucusq; aliqualic dedie  
idem G. ut p̄ius p̄e judic & dehum sud  
p̄dice unacum dampnis suis oc̄on deten-  
on debi ill sibi adjudicari &c.

Demurrer to a Rejoinder by the  
Plaintiff.

Et p̄dice J. B. dic qd' p̄litum p̄dice per  
p̄dice G. f. modo & forma p̄dice superius  
rejungendo p̄litat materiaq; in eodem con-  
tene minus sufficiend in lege existunt (&c.)  
[ as it is in a Demurrer to the Defendants  
Plea, changing the word Placitum for Re-  
juncto, and concludes like it. ]

Also the Defendants Joynder to this, is as  
his Joynder to a Demurrer upon his Plea,  
changing Placitanda to Rejungendo, and  
concludes like it.

K's Bench.

And if the Demurrer be by the Defendant to the Plaintiffs Surrejoynder, it is like his Demurrer to the Plaintiffs Replication, using the word *Surrejungendo* instead of *Replicando*, &c.

And you are to observe, That when you enter a Demurrer upon the Roll, you enter it as other Roils to the end of Joynder in Demurrer. And then immediately follows the Continuance.

Demurrer  
continued.

*Sed quia Cur dice dñd Regis nunc hic de iudicio suo de & super pmiss. reddend nondum advisatur dies inde dat est partibus p'dice coram dño Rege apud Westm usq; diem . . . pr post de iudicio suo de & super pmissis audiend eo qđ Cur dñi Regis nunc hic inde nondum, &c.*

And if it be then continued to a further day, you add:

Further  
continu-  
ance.

*Ad quem diem coram dño Rege apud Westm ven partes p'dice p Altorū suos p'dict Et quia Cur dice dñi Regis hic de iudicio suo de & super pmiss. reddend inde nondum advisatur dies inde ulterius dat est partibus p'dict coram dño Rege, &c. (as before.)*

And

And if the Judgment be then given, you say :

Ad quem diem coram dño Rege apud Westm̄ ven̄ partes p̄d p̄ Attor̄n suos p̄d sup quo visis & p̄ Cur̄ dñi Regis nunc hic diligene inspectis (or, nunc hic plenius intellectis) omnibus & singulis p̄missis maturaq; deliberatione inde h̄ita p̄o eo qđ videtur Cur̄ dñi Regis nunc hic qđ Par̄ p̄dice ipius A. matiaq; in eadem contene bonū & sufficiend in lege existunt ad p̄dice actōn ipius A. s̄lus ipm̄ C. hend manutēens Ideo cons̄ est qđ p̄dice A. recuperet s̄lus p̄fac C. debum suum p̄d necnon 6 l. p̄ dampnis suis que sustinuit tam octōne detentōn debi illi qm̄ p̄ mis̄ & custiaq; suis p̄ ipm̄ circa lectam suam in hac parte appōit eidem A. p̄ Cur̄ dcd Regis nunc hic ex assensu suo adjudicat Et p̄d C. in Quid, &c.

Judgment  
on De-  
murrers.

The Entry is much the like, if it be for the Plaintiff, upon his Replication or Sur-rejoinder in Debt, only changing the word Par̄ to Repl̄c, &c.

And if it be given against the Defendant, upon the Plaintiffs Demurrer to his Plea in Debt, 'tis much the like as p̄ eo qđ videtur, Or, quia videtur Cur̄ dñi Regis nunc hic qđ placitū p̄dice p̄ p̄dice C. modo & forma p̄dice superius p̄litae matiaq; in eodem content minus sufficiend in lege existunt ad p̄dice A. ab actōn sua p̄dice inde vers̄



K's Bench.

**p̄fat C. habend' p̄cludend' Ideo cons (Et.)**

The like upon his insufficient Rejoinder.

But where Judgment is thus given on the behalf of the Plaintiff, in case where a Writ of *Inquiry of Damages* is awarded; Then after the words *hend' manutenend'*, or *habend' p̄cludend'*, you say,

**Cons est qđ p̄d A. dampna sua versus p̄fat C. occasione p̄miss. recuperare debeat sed quia Cui dcd dñi Regis nunc hic incogn' existit que dampna, (Et.)** And so award a Writ of *Inquiry*, as it is before in Case, with the Entry of the Sheriffs Inquiry and Judgment thereon, as is before observed in the Entry of Judgment upon a Writ of *Inquiry*.

If the Judgment upon Demurrer go for the Defendant against the Plaintiff, the Entry is as before, usq;

— **Pro eo qđ videtur, or Quia videtur Cui dñi Regis nunc hic qđ Part' p̄dice matiaq; in eadem contene minus sufficiend' in lege existunt ad actionem p̄dice A. s̄lus p̄fat C. hend' manutenend' Ideo cons est qđ p̄ed' A. nil capiat per Billam suam p̄dice sed p̄ falso clamore suo inde sit in mia Et p̄dice C. eat inde sine die Et.**

**Aliter**

## Aliter upon Plea.

— Pro eo qd videtur Cur ded dñi Regis nunc hic qd placitum pdice p ipm C. modo & forma pdice superius plitae materiae in eodem contene bon & sufficiens in lege existunt ad pñ A. ab actione sua pñ plus ipm C. habens pcludens Ideo cons est qd A. nil capiat p Bill suam pd' sed p falso clamore suo inde sit in mia Et pdict C. eat inde sine die, &c.

Ideo cons est qd pñ A. nil capiat per Bill Et qd ipd & pleg sui de pñ scit A. Doe & R. Roe sint in mia p falso clamore suo Et pdict C. eat inde sine die &c.

If you shew Causes of Demurrer, then you may say as before to respondere ; and then add,

— Et p Causis morationis in lege sup Pari pñ idem C. secundum formam Statuti in humod casu nuper edic & provis ostendit & Cur hic demonstrat has causas subsequens (videt.)

\* Qd' non apparet per Pari pñ qd' est aliquod memorand' aut pmiss. ( in Pari pdict' specificat) in scripte signat p ipm A. aut aliquam al pson per ipm A. legalie authorizat put debuit secundum formam Statute in humod casu nuper edic & provis & qd' Pare pñ est incere insufficiens Et caret forma &c.

Such Causes as the Case requires.

Or

K's Bench.

Or you may put the Causes at last after the Words *p̄cludatur*, &c.

And Note, That though the want of Form is not sufficient upon a general Demurrer; yet it being made a Cause of Demurrer it may prevail. For the Judge is to have no regard to want of Form; but only to such Causes as the party demurring shall set down.

And if there be want of substance, a General Demurrer will suffice without shewing Causes.

*Of Issues and Demurrers.*

**W**Hen there is two or more Issues upon a Pleading, then after the tender of the last Issue, *Et de hoc pōd se super p̄riam Et p̄dict A. s̄lie*, &c. you add, *Et quoad triand' tam erit ist' qm̄ p̄dice al' erit in partes p̄dice superius s̄lie junce ben' inde Qui coram dño Rege apud Westm̄ die . . . p̄r' post . . . Et qui nec*, &c. *ad recogid*, &c. *quia tñ &c. idem dies dñe est partibus p̄dict ibm* (&c.)

Where there is a Demurrer to one part of the Declaration, and an Issue to the other parts the Trial may either be before or after the Arguing of the Demurrer, at the Election of the Plaintiff.

But if the Issue be tried first, then the *Distringas fur'* must be *tam ad triandum erit in partes junct' qm̄ ad inquirendū de dampnis si judiciū reddidit p̄ queri* (&c.)

Demurrer

## Demurrer and Issue.

Et quoad tam triand' erit p'dice in  
partes p'dice superius junce per patriam  
triand' qm ad inquirend' que dampna p'dice  
A. sustinuit octone p'miss. Unde partes  
p'dice in judicid' Cui se posuer si contin-  
gat judic p p'dice A. vers p'fat C. inde  
reddi ven inde Iur coram (Ec.) ut in al  
usq ibm, (Ec.)

Postea continuat process. (Ec. ut in al <sup>Postea</sup>  
to the end of the Verdict) 200 l. dampnis <sup>continued.</sup>  
Et p mis & custag' ill ad 40 s. Then add,  
Et quoad inquirend' que dampna p'dice A.  
sustinuit octone p'miss. infrascript Unde  
partes p'dice in judic Cui se posuer si con-  
tingat judic pro p'd' A. vers p'dict C. inde  
reddi tunc iidem iur die sup Sacm suu  
qd' p'd' A. sustinuit dampna octone inde ad  
100 l. Ideo cons est qd' p'dict A. recuperet  
versus p'fat C. dampna p'dice per Iur p'd'  
in forma p'dict assess. necnon 11 l. 6 s. 8 d.  
p mis & custag' p'dict eidem A. per Cui  
dcd dnd Regis nunc hic ex assensu suo de  
intro adjudicat Que quidm dampna in  
toto se astringunt ad 213 l. 6. s. 8 d. Et  
ps C. in mia (Ec.)

See *Trin.* 19 *Car.* 2. *Rot.* 251.

Issue

## Demurrers.

## Issue and Demurrer.

**Non Cul** quoad **Vulneratōn**, and justifies as Churchwarden to the rest of the Assault.

Plaintiff demurs to the Justification.

Defendant joyns in Demurrer.

**Hic inde** nondum, &c. **Et** quoad tri-  
and' erie (&c.) **Qm̄** ad inquirend' que  
dampna (&c.) ibidem, &c. **Ad** quem diem,  
(&c.) **Et** quia **Cui** (&c.) nondum advisatur  
dies inde ulterius (&c.) **Ad** quem diem  
(&c.) **Et** super hoc visis (&c.) that the  
Plea was sufficient. **Ideo** cons̄ est qd' p̄dice  
**A.** nil capiat per **William Et.** qd' ip̄e &  
pleg' sui de p̄s scit̄ **J. Doe & R. Roe** sint  
inde in mīa p̄ falso clamore suo **Et** p̄dice  
**C.** eat inde sine die, &c.

Respon-  
dees, Ou-  
ster, and  
Plea.

After a Demurrer to a Plea in Abatement the *Judgment* is *A Respondes Ouster*; some ignorantly enter up the Second Plea, taking no notice of the Demurrer, or the Judgment thereon; which is a Mis-tryal, and void. The *Respondes Ouster* and the Plea ought to be entred upon the Demurrer-Roll, and the Record for Trial is to be taken off the Roll.

The Form is thus:

After the Demurrer is continued to the day of the Judgment given, then say,

**Ad**



Ad quem diem venit tam p̄dice Quer  
p̄ Attoꝝ suum p̄dice quam p̄dice Def.  
in p̄p̄e p̄sona sua & super hoc lecto &  
audito p̄litm̄ p̄dice per p̄dice Def. su-  
perius p̄litae videtur Cui dict dñi Regis  
hic qd' Idem p̄litm̄ insufficiens est ad Cui  
dñi Regis nunc hic ad cassand' Willam  
p̄dict Et qd' p̄dice Def. ad Willam p̄dice  
Quer respondeat, &c. super hoc Idem  
Def. per A. B. Attoꝝ suum dic' qd' ip̄e  
Non assumpsit super se modo & forma put  
p̄dice Quer superius versus eum nar-  
rabit Et de hoc ponit de super Patriam  
Et p̄dice quer s̄lit, &c. Ideo venit inde  
Iur' coram dño Rege (ut in al.)

\* If the Plea be pleaded in p̄pria per-  
sona ; but if by an Attorney, then name  
the Attorney, and afterwards leave out the  
Attorneys Name, and say only per Attoꝝ  
suum p̄dice dic', &c.

## Of Denireg and Tales men.

Note, That in the *Venire facias* the usual Words were, That every Juror should have 4*l.* of Lands, &c. But now by the Stat. 4 & 5*W. & M. cap. 24.* It is Enacted, That all Jurors to be returned for Trials of Issues joyned in the *King's-Bench*, *Common-Pleas* or *Exchequer*, or before Justices of Assize or *Nisi prius*, &c. (other than Strangers upon Trials *per medietatem Lingua*) shall have in their own Name; or in Trust for them, within the same County, 10*l. per Annum*, and in *Wales* 6*l.* at the least. And if any of a lesser Value shall be Returned, it shall be a good Cause of Challenge, &c. Therefore the Writ must run *Quorum quilibet habeat Decem librat Terre tenentium vel reddit' p annum ad minus p quos, &c.* If the Sheriff, or other Officer or Minister shall return such as are not of such worth, he shall forfeit respectively 5*l.* to Their Majesties for every person.

If he returns any person to be summoned, unless he was duly summoned Six days before the day of Appearance, or take any Reward to excuse his Appearance, he shall forfeit 10*l.* to Their Majesties.

Saving to all Cities, Boroughs and Towns Corporate, their ancient Usage.

*Tales-men* need to have but 5*l.* per *Ann.* in *England*, and in *Wales*, 3*l.*

Such Officer as takes Reward for Returning of any *Tales*, forfeits for every Offence 10*l.* one Moiety to the Prosecutor, the other to their Majesties.

No Writ *De non ponendis in Assis & Juratis* to be granted, unless upon Oath that the suggestions be true.

This Act to continue from 1 *May* 1693. for three years, and to the end of the next Session. *Vide plus in libro p. 72, 73.*

of

*Of Delivering Declarations to Prisoners.*

**D**ECLARATIONS are usually delivered by the Plaintiffs Attorney to the Defendants.

But formerly when the Defendant was committed to Goal for want of Bail, unless the Plaintiff before the end of two Terms next after the Arrest, did cause the Defendant to be removed by *Habeas Corpus* to be charged in Court, the Prisoner upon Common Bail, or Appearance of Attorney was discharged from Imprisonment, to the Plaintiffs prejudice.

Therefore by *Stat. 4 & 5 Guil & Mar. cap. 21.* It is Enacted, That where the Defendant is taken or charged in Custody upon any Writ, out of any of the Courts at *Westminster*, and imprisoned for want of Sureties for Appearance; The Plaintiff before the end of the next Term after the Writ is Returnable, may declare against the Prisoner in the Court, and may cause a Copy thereof to be delivered to the Prisoner, or to the Goaler or Keeper; to which Declaration the Prisoner

soner shall appear and plead, or otherwise the Plaintiff shall have Judgment in such manner, as if the Prisoner had not appeared in Court, and refused to answer or plead to such Declaration.

That in all Declarations against any Prisoner upon *King's-Bench* Process; It shall be alledged in Custody of what Sheriff, Bayliff or Steward of any Franchise, or other Person, having the Return and Execution of Writs, such Prisoner shall be at the time of such Declaration, by virtue of the Process of the said Court at the Suit of the Plaintiff; which Allegation shall be as good and effectual as if such Prisoner were in Custody of the Marshal of the *Marshalsea*, &c.

See more in the Second Part of *Instructor Clericalis*.

Next follow some Observations concerning *Jurata's*, which are omitted in *libro*.

R

A



# *A Jurata upon a Writ of Scire facias.*

**I**dem dies dae est partibus pdict ibm  
 Ec. Ad quem diem coram Dño Rege  
 apud Welsm ven partes pdice p Attozn  
 suos pdict Et Dic videlt A. B. retozn  
 bz Dñi Regis de Venire fac ei in forma  
 pdice direct' in omnib' servie & execut  
 unacum panello de nōibus Jur eidem bz  
 annex' quoz null, &c. Ideo pcept' est ei  
 dem Dic qd Distring' Jur pdice p omnes  
 terras, &c. Et qd' de erie (&c.) ita qd'  
 heat corpora eozum coram Dño Rege a  
 die Pasche in quindecim dies ubicunq;  
 &c. vel coram Justic Dñi Regis ad alias  
 in Com S. capiend' assign' si prius die  
 . . . apud . . . p formam Stat, &c.  
 ven p defectu Jur, &c. idem dies dae  
 est partibus pdice ibm, &c.. Et sciendum  
 est (&c. ut in al vide in libro) pag. 69.

Upon an Original.

It. Jur ine D. C. quer & A. B. nup de  
 C. in Com pdict Neom de plito Cnlgē  
 super Calum ponitur in respem coram  
 Dño Rege a die Scd Michis in tres Sep-  
 tidnas ubicunq; (&c.) Nisi Justic Dñi  
 Regis ad Alias in Com pdice capiend'  
 assign' (&c. ut in al) idem dies dae est  
 partibus pdice. &c. Et sciendum est (&c.  
 as in others, vide in libro.)

Note,

Note, The Day in Bank must be on a Return-day ; but the Day of Trial a Day certain, as *Friday 21st of July, &c.*

*Upon an Andita Querela.*

*N. Jur int' A. B. p Attoꝝ suum quer & C. D. ad recogn utrum Administra omniū bonoꝝ & catalloꝝ Jurid & Creditoz que fuer' C. f. defunct' commissa fuit G. H. necne ponitur in respem coꝝam Dño Rege a die Pasche in quindecim dies ubicunq, &c. vel coꝝam Justie ( &c. as first above.)*

*If in London say,*

*Ubicunq, &c. Nisi J. H. Mit Capital Justie Dñi Regis ad plita in Cur' ipsius Dñi Regis coꝝam ipō Rege tenend' assign prius die, (&c. vide in libro. p. 68.)*

*Upon a Writ of Error brought, and Issue.*

*L. N. Jur int' A. B. nuper de, (&c.) p Attoꝝ suū quer' & C. D. gen ad recogn super Sacrum suum utrum p dice A. B. tempore redditon' Judicii. p dict versus eund' A. B. ad sece p dict C. scilicet die Veneris pꝛ post Crastin' Scd Trinitatis Anno 1696. annoꝝ regni dicti Dñi Regis nunc octavo fuit infra erat viginti & unus annoꝝ necne ponitur in respem, &c*

R 2

When

When the Sheriff is a party to the Record, say at the latter end,

**Delibatur de Recordo Cozon' Com  
pdict in forma Juris exequend' picto in-  
cumben' &c.**

Where the Plaintiff or Defendants Addition in the beginning of the Record is **Armiger**, and in the Conclusion is **Wiles**, then in the **Jurata** say, **nup Armig' modo Wile**, and so of other Titles.

I have seen a President for a **Jurata** upon a **Scd fac** thus :

**Jur' int M. B. in ppz' persona sua  
quer' Et C. D. de pito debi unde Scd  
fac ponitur in respem (&c.)**

But others said, It must be as is first above-mentioned, and shew'd a **Jurat** upon Record in the same Form.

## Writ of Error.

The manner of Entering a Writ of Error of Record out of the *Common-Pleas*, Returnable in the *King's-Bench*.

**D**ominus Rex mand' dilecō & fidel suo Georgio Treby Mil Capital Justic suo de Banco h're suum cōm in hec verba ff. Gulielmus tertius Dei Gra Angl Scot Franc & Hibnie Rex, &c. (and so enter the Writ of Error and Return, and whole Record annexed to Writ, &c.)

## Common Error Assigned.

Postea scilicet die Sabti prox' post Octab Sci Hillarii isto eod' Termino coram Dño Rege apud Westm' ven' pd' C. D. per J. G. Attorn' suū Et die qd' in Record' & process' pd' acciam in red' dition' Judicij loquel' pd' manifeste est erratum in hoc videlt qd' per Record' pd' apparet qd' Judic' pdice in forma pdice reddit' fuit pro p're A. C. versus pdice C. D. ubi per legem terre Judic' ill' reddi debuisset pro pd' C. D. versus p'refat' A. B. Ideo in eo manifeste est erratum Et p'et idem C. D. h're die Dñi Regis ad p'remuniend' pdice A. B. essent' coram dicto Dño Rege auditu' Recordum & Process' pdice Et ei conceditur, &c. per quod p'recept' est hic pdice qd' p'r probos, &c. Scire fac p'refat' A. B. qd' sit coram

K's Bench.

Dño Rege a die Pasch in quindecim dies  
 ubicunq, &c. auditur Record' & Process'  
 pñ si, &c. Et ulterius, &c. idem dies dñe  
 est pñfat C. D. &c. Ad quem diem coram  
 Dño Rege apud Westm veni pñ C. D.  
 per Attorn suu pñ Et Die non mis in  
 de hñbe Et pñd' A. B. ad eund' diem  
 solemniz erat per W. C. Attorn suu  
 silit veni super quo idem C. ut prius  
 dicit qd in Record' & Process' pñ acciam  
 in redditione Iudicii pñ manifest' est ex  
 rac allegando Error' pñdict per ipm in  
 forma pñd' allegat Et pet qd iudicium  
 pñ ob Error' & al in Record' & Process'  
 pñd' existend' revocet' adnulleti & peni  
 tus p nullo heatur Et quod ipd' ad omnia  
 que octone Iudicii pñd' amisit restituatur  
 Et quod Cur' dict Dñi Regis hic pñcedat  
 tam ad examinaton Record' & Process' pñ  
 qm mater pñd' superius p Error' assign'  
 quodque pñd' A. B. ad Error' rejunq, &c.  
 super quo idem A. B. die quod nec in Re  
 cord' & Process' pñd' nec in redditione Ju  
 dicii pñd' in ullo est Erratum Et pet quod  
 Cur' Dñi Regis hic pñcedat tm ad ex  
 aminaton Record' & Process' pñd' qm ma  
 ter pñd' superius pro Error' assign' Et qd  
 iudiciu pñd' in oib' affirmet' sed quia  
 Cur' die Dñi Regis nunc hic de iudicio,  
 suo de & super pñmis reddend' nondum  
 advisatur dies inde dñe est partibus pñ  
 coram Dño Rege apud Westm usque in  
 Crō Sre Trin ( Et sic continuat' usque  
 Hill ) Ad quem diem coram Dño Rege  
 apud Westm veni partes pñd' per At  
 torn

Plaintiff  
 se joys.

Continu.  
 acc.



toꝝ suos p̄s Super quo visis & per Cur' K's Bench  
 Dñi Regis nunc hic plen̄ intellectis oĩb;  
 & singulis p̄missis diligenterque examinae  
 & inspece in d̄ Record & Process̄ p̄ed' ac  
 iudic' super eisdem reddidit qm̄ p̄ed' Cau-  
 sis & mater' p̄ p̄dice C. superius p̄ Error'  
 assign̄ p̄o eo quod videtr' Cur' Dñd Regis  
 nunc hic quod nec Record' & Process̄ p̄s  
 nec in reddicoe iudicii p̄s in ullo vitio-  
 sum aut defectibum existit ac quod Re-  
 cord' ill' in nullo fuit erratum Considerat'  
 est quod iudicio p̄s in oĩbus affirmetr' ac  
 in omni roboꝝe stet & effectū deis causis  
 & mater' superius p̄o Error' Assign̄ in  
 aliquo non obstat Et ulterius per Cur'  
 Dñd Regis nunc hic consideratum est qd  
 p̄s A. B. recuperet verlus p̄fate C. D.  
 12 libr' eidem A. B. per Cur' Dñd Regis  
 nunc hic scdm̄ formam Stat' in hūmōi  
 Casu nuper edic' & p̄obis adjudicat' p̄  
 mis̄ custag' & damnis suis que sustinuit  
 octone dilacoẽ executioẽ iudicii p̄s p̄e-  
 textu p̄secutioẽ p̄s h̄is de Error' Et quod  
 p̄s A. B. heat inde executioẽ, &c.

Judgme  
affirmat

C. 12.

Judgment Reversed.

P̄o eo qd' videtr' Cur' Dñd Regis nunc  
 hic quod in Record & Process̄ p̄ed' acceciam  
 in reddicoe iudicii p̄edice manifeste est  
 Erratum cons̄ est quod iudicium p̄dict' ob  
 Error' ill' & al' in Record & Process̄ p̄ed'  
 revertere' adnullere' Et penitus p̄ nullo  
 heatr' Et qd' p̄s A. ad oia que octone iudi-  
 cij amisit restituatr', &c.

R 4

Placitum

Plitum ad Scire fac. Glus Mantape.

Et p̄d' A. B. & C. D. per . . . . At-  
 rognat' suū v̄d' & petunt iudic' de h̄e de  
 Scire fac p̄d' quia dicunt qd' post reddit-  
 onem iudicii p̄dict' versus p̄fat' (def.) in  
 forma p̄dict' h̄e & ante emanatōn h̄is  
 de Scire fac p̄dict' versus p̄dict' A. B. &  
 C. D. nullū h̄e de Capias ad satisfaci-  
 end' de & super Iudiciū illo p̄ p̄dice quer'  
 versus p̄dice def. deho modo prosecue &  
 retoznac fuit qd' scdm cons' Cur' ill' a tem-  
 pore cuius contrarij memoria hominum  
 non existit usitat' & approbat' in cas' Cur'  
 fieri debuisset anteqm' aliquod h̄e de Scire  
 fac versus p̄dice A. B. & C. D. emanasse  
 debuit & hoc parat' sunt verificare unde  
 petunt iudiciū & quod h̄e de Scire fac  
 p̄dice cassetur.

Replication.

Et p̄dice quer' dic' qd' ipse p̄ aliqua p̄al-  
 legat' ab execucon' sua p̄dict' de deho &  
 dampnis p̄dice per A. B. & C. D. in for-  
 ma p̄dice Recognie p̄textu Recognitōn  
 p̄dice hend' h̄e de Scire fac cassari non  
 debet quia dic' qd' post redditōnem iudicii  
 p̄dice Glus p̄fat' (def.) in forma p̄dice h̄e  
 & ante emanatōn p̄dice h̄is de Scire fac  
 versus p̄fat' A. & C. scilicet (the day of the  
 Teste of the Capias) p̄dice Cur' die dñi  
 Rē coram ipso Rege apud Westm' prose-  
 cut' fuit quoddā h̄e de Capias ad satisf-  
 faciend'

faciend' versus p'dice def. tunc Vic London' direct' p' quod quidam h're dictus dñs Rex eisdem tunc Vic London' p'cepit qd' caperent p'dice Def. si invene' fuisset in Ballia sua & eum salvo custod' Ita quod herent corpus ejus coram dño Dño Rege die [the Return of the Writ] ad satisfaciend' p'efae quer' de Centum libris necnon 10 l. quas p'dice quer' in Cur' dice Dñi Regis coram ipso Rege apud Westm' sustinuit tam ockone detencion' debi illius quam p' mis' & custagijs suis p' ipm' circa lectam suam in ea parte appoit unde p'dice Def. condice fuit p'out constat de recozdo Et quod p'dice vic London' herent ibi tunc h're illud p'd quod quidem h're de Capias ad satisfaciend' de & super iudicio illo p' p'dice quer' versus p'dice Def. debito modo p'olsecut' fuit & ante Retozd' ejusdem h'ris p'efae vic London' debito modo delibac' fuit super quo p'dice quer' ad p'efae Retozd' ejusdem h'ris ven' in propria persona sua & tunc vic London' videlicet Willus Coles Whiles & Johannes Sweetaple, Whiles ad diem ill' retozd' quod p'dice def. non fuit invene' in Ballia sua put p' p'dice h're de Ca Sa & retozd' inde in eadem Cur' dicti Dñi Regis coram ipso Rege apud Westm' inc' filiac' brevium de Ca Sa in p'dice Cur' dice Dñi Regis coram ipso Rege apud Westm' de Recozdo remanend' assilae plenius liquet & apparet & hoc parat' est verificare unde p'd quer' petit Execucionem de p'dice debito & dampnis p'dice in forma p'dice recognie p're.

K<sup>ts</sup> Bench. p<sup>re</sup>textu recogni<sup>ti</sup>onis p<sup>re</sup>dict sibi adju-  
dicar, &c.

Aliud placitum ad Scire fac' versus  
Manucaptoz'.

Nul tiel.  
Record.

Super quo vendit A. B. & C. D. per . .  
. . . Attor<sup>um</sup> suum Et dicunt quod p<sup>re</sup>dicte  
quer' Execucionem suam versus eos de  
debo & dampnis p<sup>re</sup>dict here non debet quia  
dicunt quod non hetur t<sup>em</sup>p<sup>or</sup>e Recordi Recog-  
nitionis p<sup>re</sup>dict quia p<sup>re</sup>dict quer' per h<sup>oc</sup> suu  
superius supponit Et hoc parati sunt ve-  
rificare unde petunt iudic' si p<sup>re</sup>dicte quer'  
Execucionem suam versus eos de debo &  
dampnis p<sup>re</sup>dicte here debeat, &c.

Replication.

Et p<sup>ro</sup> quer' dicit quod ipse per aliqua  
per p<sup>re</sup>dicte A. B. & C. D. supertus p<sup>re</sup>fi-  
tando allegat ab Execucione sua p<sup>re</sup>dicte,  
versus eos de debo & dampnis p<sup>ro</sup> hend  
p<sup>re</sup>cludi seu retardari non debet quia dicit  
quod hetur t<sup>em</sup>p<sup>or</sup>e Recordi Recognitionis p<sup>re</sup>dicte  
quia ipse per h<sup>oc</sup> suum p<sup>re</sup>dict superius sup-  
ponit Et hoc parat est verificare unde p<sup>ro</sup>  
quer' petit Execucio<sup>em</sup> de debo & dampno  
p<sup>ro</sup> in forma p<sup>ro</sup> Recognitionis p<sup>re</sup>textu Re-  
cognitionis p<sup>ro</sup> sibi adjudicari, &c.

Aliter

Aliter sic.

Et hoc paratus est verificare p Recor<sup>u</sup>  
 Recognitōm p<sup>re</sup>s p<sup>ro</sup>ut patet in Cur' dice  
 D<sup>ni</sup> Regis coram ipso Rege apud Westm  
 p<sup>re</sup>dice Termin<sup>u</sup> . . . Anno, &c. in Rotlo  
 66. Et super hoc p<sup>re</sup>dice quer' per quod Re-  
 cor<sup>u</sup> Recognitōnis p<sup>re</sup>s p Cur' hic videatur  
 & inspiciatur, &c.

## Acknowledgment of Restitution.

. . . Postea scilicet die . . . p<sup>ro</sup>x' post  
 Anno Regni D<sup>ni</sup> Willi tertij nunc Re-  
 gis Angl, &c. Septimo coram eodem D<sup>no</sup>  
 Rege apud Westm ven<sup>it</sup> p<sup>re</sup>s J. per R. G.  
 Atto<sup>re</sup>m suum Et cogn<sup>ovit</sup> se huic restitutōm  
 a p<sup>re</sup>fat<sup>o</sup> W. de omnibus denar' suis  
 que ipse idem J. octone Iudicij p<sup>re</sup>s  
 amisit Ideo idem W. de omnibus talibus  
 denar' suis sit inde quier, &c.

A Commitment to the *Marshalsea*.

L. N. C. D. alias dice (&c.) gen<sup>er</sup>al com-  
 mittitur custod<sup>ari</sup> Marr', &c. in Executione  
 ad sextam A. B. p<sup>ro</sup> 50 l. de debito &  
 33 s. p<sup>ro</sup> missis ibi remansur' quo-  
 usque, &c.

C. p. atto<sup>re</sup>m.

Iudic



Judicē irroclat de Termino Scd Trin  
Anno 7. Will Tercij Regis.

Or thus, upon the same Roll as Judgment is

Postea scilicet p̄ die Mercurij p̄or'  
post quinden Scd Trin isto eodem Ter-  
mino coram Dño Rege apud Westm̄ ben-  
p̄dict M. B. in p̄opr' person sua Et p̄  
C. adtunc p̄sens hic in Cur' ad petitionē  
p̄dict M. commissus est custos Marti, &c.  
in Executione p̄o Debo & Dampnis p̄es-  
ibm remansit quousque, &c.

*Concerning Special Pleadings and Paper Books.*

Note. If there be Special Pleadings in any  
Action by the Plaintiff or Defendant, <sup>9d</sup> the Se-  
condary will give Rules to reply ; and if the  
Defendant either come to Issue, or that  
there be a Demurrer, the Pleadings are  
to be given into the Clerk of the Papers,  
who gives a Rule in the Margin of the Book  
for the Defendant to rejoyn, &c. and he is  
paid for making it up, ( which is otherwise  
in the Common Pleas, for there the Plain-  
tiffs Attorney hath that benefit of making  
up the Book. ) Also he is paid 4 d. *per* Sheet  
for Special Pleadings, and 8 d. *per* Sheet for the  
whole Issue, or Paper Books of the Demurrer.  
It's said, That after the Rule to return the  
Paper Book be out, you may refuse to ac-  
cept it without a new Rule, unless it be  
within one day of the time, but then you  
may detain it four days inclusive.

After

After a Special Plea, the Defendants Attorney at any time before he set his Hand to consent to the Entry of a Special Issue, he may plead the General Issue, and wave the Special Plea. K's Bench.

Note, You may in this Court proceed by way of Original to the Outlawry, &c. for which see **Ius Philazarij.**

You may proceed in Trespass and Trespals upon the Case, but not in Debt or Covenant, which is thus : You must draw up your Instruction for the Original according to your Case, and carry it to the Curfitor of the County, where you will try the Action; if you carry it within the first week of the Term, then the Original will be returnable the first day of the next preceeding Term, but you must take care that your Action did arise so long since, so as not to date the Original before the Cause of Action.

Then carry your Original to the **Philazer** of the County (who will make you out **Capias al & plur'**) if you intend to proceed to Outlawry) each of which must have 15 days between the date and the return, and you return them **Non est inventus** of course; and File them with the **Custos Brevium**; And the same **Philazer** will make you out **Exigent & Proclamations**, which are made returnable after five County Courts, which are held but once in three weeks, if the Action be laid in the Country; but if it be laid in *London*, six weeks time will

K's Bench. will serve, because the Hustings are oftner held.

Some say, That an Attorney of the *King's Bench* may proceed by Original without the *Philazer*, by making the Process himself, and letting the chief Clerks name to it, as *Holt* and *Coleman*: And this its said was adjudged upon a Tryal between Mr. *Try Philazer*, and Sir *Robert Henly* Chief Clerk: *sed quare.*

For the manner of Proceeding by Original to remove Actions out of the Inferior Courts, and for Errors, &c. See Mr. *Vidians* Introduction, before his Book of Precedents called the *Exact Pleader*.

# THE Common Pleas.

## *Instructions for Præcipes.*

**A** Young Clerk in the *Common Pleas* will have little or nothing to do in filling up Writs for the first Process, there being proper Offices for that purpose, as the *Cursitors, Philazers, &c.* Therefore we will proceed to such things as may be his Employment.

But you may observe, That the Instructions for the first commencing of a Suit in the *Common Pleas* is by *Præcipe* and *Pone*, to be drawn upon Paper after this manner, and it serves both for the Original and *Capias*, being delivered to the *Philazer* of the County.

As in Debt.

Lond' R. **P** *Præcipe* A B. nuper de London \* *Alias*  
Gen \* qd' reddat C. D. 200 l. *dist'*, if  
Or' ret' res Crim Cap ret res Mich. any  
Note

~~Hi. Bond.~~ Note all *Præcipes qd reddat* are finable,  
*Cur. Bond* (viz.) if above 40 l. 6 s. 8 d. *Vid. Postea.*

Note also, The Original is the Warrant to every *Capias* to Arrest, and the return of the Original is the *Teste* of the *Capias*.

But if you set down the Return of your *Capias*, the *Philizer* of Course takes care for the rest.

Note, If it be upon a Specialty, as Bond, Bill, &c. you must draw up your *Præcipe* with an *alias dictus*, as it is in the Bond or Bill *literatim*; and if it be upon an Indenture, the *alias dictus* must be recited *literatim*; as in the Indenture.

Note, In a Writ you may have four Defendants, yet you can have but one Plaintiff, in a Writ, unless it be in a Joynt Action.

If you would have two, three, or four Defendants in one Original (more you cannot have) then draw your *Præcipice* thus:

*Præcipe* in Debr.

London ff.

Pr' A. B. nuper de T. Gen quod reddat J. H. 10 l. Pr' C. D. nuper de T. Husbandman quod reddat eidem J. H. 20 l. rer' tres Mich.

Or



Or thus in debt for a **Cap** only, to avoid **Com. Pleas.**  
 the Fine payable upon a **Præcip quod red-**  
**dat**, any thing above 40 l. to 100 l. pays 6 s.  
 8 d. and 100 l. 10 s. and so of the rest. ●

**Wiltis ff.**

**Si A. B. fec, &c. pon, &c. C. D. nuper**  
**de L. in Com tuo Gen Elm freg apud G.**  
**Accriam in debo p 100 l. rec Quind Pas.**

Or thus for Book Debt, or Promises.

— **Accriam in Cas p 20 l. rec.** And  
 so of the rest. And if any be in Trespas  
 you name Him, his Place, and Addition;  
 and then say, **Elm freg apud L. rec**  
**Quinden Pas.**

In Trespas.

**London ff.**

**Si A. B. fec, &c. tunc pone, &c. C. D.**  
**nuper de L. Yeoman de plito quare Vi &**  
**armis elm & domū ipsius A. apud L. fre-**  
**git Et al enormia ei intulit Ad grave**  
**dampnū ipsius A. Et contra pacem, &c.**  
**Or rec tres Trin.**

Or thus in short, — **Elm freg apud A**  
**rec tres Trin.**

## Præcipes.

In Assault and Battery.

Londond ff.

Si A. B. fec. &c. tunc pone, &c. C. D. nuper de L. Yeoman de plito quare Vi & armis in ipm A. apud L. insule fecit & ipm verberavit vulneravit & maletractavit ita quod de vita ejus desperabatur Et alia enormia ei intulit Ad grave dampnū ipsius A. Et contra pacem, &c.

Or in short, — de plito Inlgi & Insule rec, &c.

In Account as Receiver.

Suri ff.

Præc C. D. nuper de E. in Comd pdice Gen quod reddat f. G. rationabilem Compund suū de tempore quo fuit Receptoz denar ipsius f, &c.

If as Bailiff, then as before, to — de tempore quo fuit Ballibus ipsius f. in C. &c.

If as Bailiff and Receiver, then — de tempore quo fuit Ballibus suus in C. Et Receptoz denar ipsius f, &c.

In Detinue.

Soni ff.

Præc C. D. nuper de E. in Comd pdice Yeoman qd reddat f. G. und Equam unam Varram

Præcipes.

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Daccam (as the Case requires) præcij 10 l. Com. Pleas.  
quas ei injuste detinet, &c.

In Annuity.

Som̃s ff.

Præc C. D. nuper D. C. in Com̃ p̃dict  
Yeoman quod redd̃ ff. G. 100 l. que ei  
aretro sunt de quodam annuo redd̃ 50 l.  
quas ei debet & injuste detinet, &c.

In Covenant.

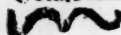
Som̃s ff.

Præc C. D. nuper de C. in Com̃ p̃dice  
Yeoman alias dice, &c. (literatim as in the  
Indenture) ad respons̃ ff. G. de plito quod  
teneat ei conveniẽt int̃ eos fact̃ scdm̃ vim  
form̃ & effect̃ quarundam Indentur̃ int̃  
eos confect̃, &c.

In Case.

You may either say generally, de plito  
Cũlgi super Casum rer̃, &c.

Or if you intend to have Special B. and  
to go to Tryal the same Term, then say  
de plito quare cum, &c. (setting forth spe-  
cially the Cause of the Action) Ad dampnũ  
ipius A. 59 l. rer̃, &c.



## In Ejectione firme.

Quidam ff.

Si A. B. fec, &c. tunc pone, &c. C. D. nuper de E. in Com p'dice Yeoman Ad respond p'far A. B. de plito quare Vi & armis und Mesuag & vigne ac Terre cum p'tid in E. que f. G. p'fat A. dimisit ad termin qui nondum p'terit intrabit Et ipsum a firma sua p'dice ejerit Et alia Enormia, &c. Ad grave dampnū, &c. Et contra pacem, &c.

But this not is used now, the way being to deliver a Declaration to the Tenant in possession, as you may observe amongst the Declarations afterwards.

Note, That Appearances upon Writs in the *Common-Pleas*, must be entred with the Philazer, within 8 days after the Return of the Process, as is before observed in the *King's Bench*.

Orders

*Orders to be observed by Commissioners Impowered by Commission, in pursuance of an Act of Parliament, for taking Special Bail in the Country upon Actions and Suits depending, or to be depending in His Majesty's Court of Common-Pleas at Westminster.*

**F**irst, It is Ordered, That before any Bail be taken by virtue of the said Act, a True Copy of the Writ on Parchment, to which the Defendant is to put in Bail, shall be brought to the Commissioner before whom such Bail is to be taken; and thereupon the Recognizance or Bail-piece shall be fairly drawn and engrossed on the said Parchment Copy, in this or the like Form, as the Case shall be (*viz.*)

|               |                     |
|---------------|---------------------|
| A. B. Atto: n | Manucaptors Johanne |
| p Defend      | nes Denn de Black.  |
|               | barnesley in paroch |
|               | de Settle in Com E. |
|               | gen & Richus Penn   |
|               | de eadem gen.       |

|                      |              |
|----------------------|--------------|
| Capt & cognie decimo | Pars ipsa in |
| die Martij Anno      | 20 l. uterq; |
| Dom. 1692. de bene   | M. in 10 l.  |
| esse coram me A. B.  |              |
| und Commissionar.    |              |

If the Defendant be not present, then the Bail are usually bound in double the Sum in the Writ, otherwise only single.



Com.Pleas.

The Condition of which said Recognizance shall be to this effect, (*viz.*)

**Y**OU [Naming the Defendant if présent] do acknowledge to owe unto the Plaintiff 20 l. and you ( Naming the Bail ) do severally acknowledge to owe unto the same Person the Sum of 10 l. apiece, to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, That if the Defendant be Condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner to the Fleet for the same; and if he fail so to do, you [naming the Bail] do undertake to do it for him.

Secondly, It is Ordered, That the Affidavit of the due taking of every such Bail, shall be made either before some Judge of the *Common-Pleas*, to whom the Bail shall be transmitted, or before some person who shall have power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, It is Ordered, That all Bails taken by any Commissioner within the distance of Forty Miles from the Cities of *London* and *Westminster*, shall be transmitted to the Lord Chief Justice of the Court of *Common-Pleas*, or to one of the Justices of the said Court, within Ten days after the taking thereof; and all Bails taken by any Commissioner above the distance of Forty Miles from the said Cities of *London* and *Westminster*, shall be transmitted within Twenty days after the taking thereof, unless all the said Justices shall

shall be in their Circuits, and then as soon as *Com. Pleas.* any one of them shall be returned to *London* out of his Circuit.

Fourthly, Also every Commissioner is to have a Book kept purposely for Entering exactly the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the time of the taking thereof, and the Name of him by whom such Bail shall be Transmitted.

Fifthly, It is further Ordered, That the Plaintiffs Attorney shall be at liberty to repair to the Commissioners Book for the Names of the Bail, to the end that they may enquire of the Sufficiency of them; and if they are found Insufficient they may except against them within Twenty days after the said Bail is transmitted, and Notice to the Plaintiff or his Attorney of the taking thereof: And in that case the Defendant must either put in better Bail, or the Cognizors of such Bail must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

*Geo. Treby.*  
*Ed. Nevill.*  
*John Fowel.*  
*Tho. Rokeby.*

*The Form of putting in Bail in the Common-Pleas.*

**I**N putting in Bail in the *Common-Pleas* before a Judge, if it be for a Priviledged person, the Prothonotaries Clerk is to go with you before the Judge; if for another person, then the Philazer of the County or his Clerk must attend the Judge with you: Unless it be taken before the Commissioners in the County; and then you carry it with the Affidavit to a Judge of the *Common-Pleas* to allow it, and from thence to the Philazer of the County with it, who keeps it, &c.

If the Defendant put not in Special Bail (when required) you get the Sheriff to assign over his Bond, and take out the *Capias* upon it (directed to the Coroners, if the Sheriff be in Office;) but that requires no Special Bail, only an Appearance; so that any Attorney, &c. may back the Warrants for Appearance, which none will refuse to do, if he have authority, and know the party, &c.

See after how to proceed against the Bail among the *Scire fac?*

The next thing is to provide for the Declaration, the Forms whereof you will find towards the latter end of this Treatise.

And Note, By the course of the Court the Defendants are to Answer the same Term they appear, if the Writs be Returnable at the beginning of the Term, especially in  
 Issuable

Issuable Terms, as *Hillary* and *Trinity*: But Com. Pleas.  
no other Terms. If the Actions be not laid in *London*, the Defendants have for the most part Imparances, or time to plead till the next Term.

And Note, That there are two kinds of Imparances, the one General, the other Special; as you may find amongst the Declarations.

After a General Imparance the Defendant cannot plead in Abatement to the Writ, *Excommunication*, or the like, nor any privilege, as a privileged man of another Court; as of the *Chancery* or *King's Bench*. See *Inst. Cler'* 3d Part.

But many Pleas may be pleaded after a Special Imparance, which will not be allowed after the General.

And Note, That if the Defendant pray a Special Imparance, he pays the Plaintiff's Attorney 2 s. for the Entry.

Note, it is said, That when your Declaration is upon a Bond, if the Defendants Attorney upon receiving the Declaration, do not crave that the Condition of the Bond may be entred with the Imparance, and also pay for the same; then he is debarr'd from pleading Conditions perform'd at any time after, without moving the Court and paying 5 s. to the Judges Box: But if he insist upon it, he need not plead till he have it.

After the Declaration is delivered, the Attorney may give Rules to answer in due time; and these Rules to answer must be entred (in that Prothonotary's Office where  
the

Com. Pleas. the Plaintiffs Attorney does enter his Causes) by the Secondary of the same Office, for which is paid 4 *d.* and for the Stamp-duty 12 *d.*

Note it's said, the Plaintiff hath that Term wherein the Writ is Returnable, and until the last day of the following Term, to Declare against the Defendant; and if he doth not then Declare, the Defendant upon a Rule given in that Office, may there sign a *Non prof.*

In like manner, That the Defendant upon pleading any General Issue, may after a Rule given Nonsuit the Plaintiff (if he do not Enter his Issue,) and get Costs signed by the Prothonotary, and Enter up Judgment, *Quia Quer non junxit in exitum nec ulterius Proest hbrebe suum pdict, &c.*

See more of this hereafter, and in the Second Part of *Instructor Clericalis.*

If the Def. upon a Rule given to Answer do not plead before the Rule is expired, the Plaintiffs Attorney may afterwards Enter up Judgment by *Nil dicit*; the Form whereof you will find among the Judgments.

Yet many times where the Plaintiffs Action is just and right, the Attorney for the Defendant will yield to a Judgment, either by way of *Non sum informatus* or Confession; so that the Plaintiff will stay Execution against the Defendant until such a time as both the Attornies shall agree upon; and this is a good way to save the Defendants Person and Charges.



## Of making up Issues.

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It is done after this manner generally in *Com. Pleas.*  
the Plaintiffs Attorn' Dogget-Book : \*

● Somers St. Armstrong p Radford,

Johnson p Bayly.

Non sum informatus ita quod cesset  
executio usq; Term Trin. ●

p Willm Johnson.

\* Or may it be done upon the Declaration,  
&c.

Upon which Judgment you may get Costs  
taxed by the Prothonatary.

If the Attorney for the Defendant do plead  
unto the Action, then you may joyn Issue and  
go to Trial by *Nisi prius*, at the next Assizes  
for the County. Of which more here-  
after.

But our Young Clerks first Business being  
chiefly in making up issues and Records and  
Entring up Judgment, we will next set down  
some things concerning them.

### *How to make up Issues.*

**N**Ote, the *Common-Pleas* use no *Memo-  
randums*, (as does the *King's Bench*)  
unlets in Special Cases, (as in a Bill against  
an Attorney.)

But having written the Prothonotary's  
Name and the Term, the Issue is made up :  
They begin with the Declaration in manner  
following :

Trin

Com Pleas.

Cooke.

Trin 12 Will tercii Regis.

**Solis ff.** **A**. B. nuper de C. in Cond pñ  
Yeoman attach fuit ad re-  
spondend D. E. de plito Cūlgi super Ca-  
sum Et unde idem D. per F. G. Attozñ  
suum queritur Quare cum, &c. (verbatim  
as in the Declaration.) Et inde pducit se-  
ntam, &c.

Note, in Debt, Covenant, Account, An-  
nuity, Detinue and Replevin, the *Com-  
mon-Pleas* form is summonitus fuit ad  
respondend; and in Case, Trespass,  
Trover and Ejectment, the Form is  
attachiatus fuit ad respondend, (&c.)

Having written the Declaration, you must  
begin a new Line to Enter your Issue; for  
observe that the *Common-Pleas* doth rarely  
continue any Imparlance in their Entries,  
[though at the bottom of their Declaration]  
they usually give a **LD Uñ** to the next Term,  
when they deliver them to the Defendants  
Attorney, as you may see amongst the De-  
clarations.]

## Non Assumpsit.

Non as-  
sumpsit  
pleaded.

Et pñdic A. B. per H. J. Attozñ suum  
ven & defend vim & injur quando, &c. Et  
dicit quod ipe non assumpsit super se modo  
& forma pñt pñdic C. superius versus eum  
que-

queritur Et hoc pon de super Priam Et <sup>Com: Pleas.</sup>  
pdict D. filie Jo pcept est Dic quod Veni-  
re fac hic ad die Sed Crimitatis in tres  
Septimanas per quos, &c. Et qui nec,  
&c. ad Recogn &c. Quia, &c.

Non Cul in Case.

Et p̄d A. (&c.) quando, &c. Et dicit q̄d <sup>Non Cul.</sup>  
ip̄d in nullo est Culpabilis de p̄missis su-  
pius ei impōit put p̄dict C. supius & sus  
eum queritur Et de hoc pon se sup Priam  
Et p̄dict C. filit Ideo pcept est Dic, &c.  
as before.

Note, If in Trespass, then Et dic quod  
ip̄d in nullo est Culpabilis de Cūlgr  
p̄dice put, &c.

In Assault.

De tūlgr & Insule p̄res, &c.

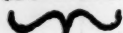
Nil debet p Priam.

Quando, &c. Et dicit quod ip̄d non debet <sup>Nil debet.</sup>  
pfac A. B. p̄dice 20 l. nec aliquā denar sum  
in forma qua idem A. supius & sus eum  
narravit Et de hoc pon se sup Priam  
Et p̄dice A. filit Ideo, &c. (ut in al.)

Non est factum to a Bond.

Quando, &c. Et dicit quod ip̄d de Debo <sup>Non est fac-</sup>  
p̄d virtute script p̄dict onari non debet quia <sup>factum.</sup>  
dic quod scriptum illud non est factum  
suum Et de hoc, &c. (ut in al.)

By



## Of making up

By an Executor.

Et dicit qd scriptum p̄d Non est factum p̄d  
A. B. Testatoris Et de hoc p̄d &c. (ut in  
al.)

To a Bill.

Et dicit Qd ip̄s de deho p̄dict virtute Bil-  
le p̄dict onari non debet Quia dicit quod  
billa ista Non est factum suum Et de hoc, &c.

And so of an Indenture *mutatis mutandis*.

See for more Issues toward the latter end,  
next after the Declarations.

*How to make up the Record.*

**M**Ake a Margent of near an Inch broad,  
then near the top of your piece of  
Parchment write the *Placita* in the same  
small Hand you write the rest of the Record,  
but the word *plita*, as also the first word of  
the Plea, *Repl*, &c. makes a Record seem well.

*Plita apud Westm̄ coram Georgio Tre-  
bp Mil & Sociis suis Justic̄ dnd Regis  
de Banco de Termino Sed Trinitatis  
Anno Regni Dnd Willi terciij Dei gr̄a  
Angl Scot̄ Franc & Hibnie Regis fidei  
defens̄, &c. duodecimo.*

*Roelo . . . .*

Then beginning a New Line near half an  
Inch distance, Enter the Declaration as fol-  
lows:

*Som̄s*

Som̃s ff. **A**. B. nuper de C. in Com̃ p̃d  
gen' attach fuit ad respon-  
dend D. E. de p̃lito C̃nsg̃i super Casum  
Et und̃ idem D. p̃ f. G. Attorn' suum  
queritur quare cum, &c.

————— To the End of the Issue.

Quia tm̃ &c.

Note, The *Common Pleas* write their *Plita*  
but once, (except death or change of  
Chief Justice, or upon an old Record,  
so that 'tis good to leave an Inch be-  
twixt the Issue and *Jurata*, and then  
after their Issue another *Plita*) and be-  
gin their *Jurata* within an Inch of the  
Issue thus :

Som̃s ff. Jur̃ int̃ D. E. Quer̃ Et A. B.  
nup̃ de C. in Com̃ p̃d geñ de p̃lito  
C̃nsg̃i sup̃ Casum ponitur in resp̃m̃ hic  
usq̃ a die Sc̃d Mich̃is in tres Sept̃ianas  
Nisi Justit̃ dnd̃ Regis ad Affisas in Com̃  
p̃dict̃ capiend̃ assigñ p. form̃ Statuti, &c.  
die [the day of the Affizes] apud [the place  
where the Affizes are held] in Com̃ p̃d p̃ius  
veñ p̃ def̃m̃ Jur̃ quia null̃ veñ Jō Vic̃  
heat corpora, &c. Et sciend̃ est qd̃ h̃re in-  
de Justit̃ hic in Cur̃ isto eod̃ Termiñ de-  
libaver̃ Deputar̃ Vic̃ Com̃ p̃dict̃ in forma  
Juris exequend̃, &c.

*Jurata*



Com Pleas.

**Jurat** upon an Issue taken by the Attornie General for the Kings as in **Quare impedit**, thus :

**Berk. ff. Jur' in Dom Regem per Edwardum Ward Attoꝝ dice Dñi Regis nunc General Quer' & J. B. Clien' de plito quare Impedit ponite' in respēu, &c. (as in others.)**

If your Jurata be in *London*, then say,

**London ff. Jur', &c. (as before) ponitur in respēd hic usq (the very next day after the Sittings, if in Term, but if not in Term, then to the first Retorn-day of the next Term as] a die Scd Michis in tres septimanas Nisi Georgius Treby Mil Capital Justit Dñd Regis de Banco hic assign p form Statuti, &c. die. [the day of the Sitting] \* apud Guildhall London prius veni, &c. (as before to) delibaver' A. B. Ar' [naming the Under-sheriffs Name] Deputat Viz London' in forma Juris exequend, &c.**

\* If in *Widdor* you say **Nisi ( &c. ) apud Westm pñ in Magna Aula plitoꝝum vulgariter nuncupat Westminster Hall ibm ( &c. ) prius veni, &c.**

When your Record is made up, and before it be Sealed, you must enter your Issue on a Roll from the Prothonotary, or at least must thereon make an *incipit* of the Issue and then carry the Record and Roll to the Prothonotary, who will sign your Records upon paying him for the Issues ; and if you have

and Venires.

have occasion will give you back the Roll, <sup>Cor Pleas.</sup> then you must carry your Record to Mr. Mills Office in the Temple to be Sealed, and you must make out Warrants of Attorney to carry with it after this manner, (*viz.*)

Somus ff. D. C. pō lō suo ff. G. Attor<sup>m</sup> Warrant  
suo ffus N. B. nup de C. in Com p<sup>d</sup>ice of Attor-  
Gen de placito transgt sup Casum. ney.

ff. N. B. nup de C. in Com p<sup>d</sup>ice Gen  
pō lō suo ff. J. Attor<sup>m</sup> suum ffus D. C.  
de plito p<sup>d</sup>; and so of the rest. You must  
give the Warrants to the Clerk of the War-  
rants there, who will sign your Record, then  
you must give it to the Clerk of the Jurats  
to examine, and then to Mr. Mills to sign,  
and then to his Man to seal.

Of Venires.

The Form of a Venire fac in Coi Banco.

**G**uilielmus tertius Dei Gra Angl  
Scot Franc & Hibnie Rex fidei  
Detensor, &c. Dic S. saltem p<sup>c</sup>ipimus  
tibi qd Venire fac coram Justic nris  
apud Westm a die Sed Trinitat in tres  
septimanas duodecim Liberis & legales  
hoies de Vicu de C. in Com tuo quoz  
quilibet heat decem Libr Cert Centoz  
vel reddie per Annu ad minus per quos  
Rei veritas melius sciri poterit Et qui  
nec D. C. Quer nec N. B. nup de C. in  
Com tuo Gen \* aliqua affinitate atting  
ad faciend quandam Juram P<sup>d</sup> inter  
F Partes

\* Note, if  
it be upon  
a specialty,  
you must  
put in the  
alias dist<sup>r</sup>.

*At Colleas.*

**Partes pō de plito transgīt** [ as the Cause of Action is ] **Quia tñ idem D.** ( who first takes Issue ) **qñ pñce A.** inter quos inde **Contentio est** posuerit se in **Juratam ill** **Et heas ibi noia Jur** Et hoc brebe **Teste. G. Treby apud Westm 31 die Maij Anno Rñd nostri duodecimo.**

You must sign this **Venire Fac'** with the Prothonotary, and pay him 1 s. 4 d. and this may be done before your Record is sealed.

Where Attorney-General takes Issue.

In **Quare Impedit, &c.** ( make it thus ) **Gulielmus, &c.** [ usq; scire poterit ] **Et qui J. B. Clico null affinitat atting' ad fac** **quandam Jur pñe int Nos & pñce J. de plito Quare Impedit Quia tam Nos qñ pñce J. int quos inde contentio est posui-** **mus Nos in Jurd ill Et heas ibi noia Jur Et hoc bñd Teste G. Treby Mil, &c.**

Note, You may move the Court in **Quare Impedit** on the King's part for a Special Jury, viz. That the Sheriff attend the Prothonotary with his Book of Freeholders, that the Prothonotary in the presence of the Attorney or Solicitors of both parts may name 48 from which either Party may abstract 12 and the Sheriff to impanel the remaining 24 **Et qđ null fiat Calumpñ pñ de-** **fectu hundredorum, &c.**

If you doubt in this Case, whether a sufficient Number of the Pannel will appear to make a full Jury, &c. Then you must

must draw up a Warrant, or rather Petition Com. Pleas.  
for a *Tales* in Court Hand upon Parchment  
after this manner, (viz.)

Berke s.

Edwardus Ward Armiger Attorn  
Dñi Regis nunc General qui p eodem  
Dño Rege in hac parte sequitur p  
Dño Rege per Tales de Circumstantibus  
hic per Cur concedi p triacon Eric ine  
die Dominum Regem & J. B. Cicum  
de plito Quare Impedit ne Jur, in hac  
parte capiend reman p defectu Jur, &c.

*Edward Ward.*

To this you must get the At-  
torney General's Hand, the  
Fee of which is 9 s. 8 d.

The Form of a Habeas Corpora.

**G**uilielmus tertius Dei Gra Angl  
Scot Franc & Hibnie Rex fidet  
Deiens, &c. Die S. saltem perpinus tibi  
qd heas coram Justie nr̄is apud Westm  
a die Sed Michis in tres septimanas vel  
coram Justie nr̄is ad Assias in Com tuo  
capiend assignd p formam Statut inde pvis  
si die [theday the Assises are held] apud, &c.  
[the place where] in Com tuo prius ven  
Corpora N. B. C. D. E. F. &c. [naming  
the Jury returned on the Pannel] Jur sum  
in Cur nostra coram Justie nr̄is apud  
Westm ine D. E. Quer' & N. B. nuper de  
& in Com tuo Gen de plito transgr' ad fa-  
ciend

T 2

Com. Pleas.

ciend Juratam ill Et heas ibi hoc bꝛ  
 Teste G. Treby apud Westm 19 die Ju-  
 nij Anno r<sup>di</sup> duodecimo.

This Habeas Corpoꝛa you may bespeak at Mr *Windham's* Office in the *Temple*, or else you may fill it up your self, and carry it thither with your *Venire*, and his Clerk will examine it and sign it, and you must leave your *Venire* and Pannel with him to be Filed.

Next seal your Habeas Corpoꝛa, (which may be done before or after your Record is Sealed. )

See in the King's Bench for a *Disfringas* when in *London* or *Middiesex*, which will instruct you how to put your day and place in a Habeas Corpoꝛa for either of their places ( *mutatis mutandis*. )

Note, Formerly if your Record was not tried the first Assizes, then you might make out a *Plur' Habeas Corpoꝛa* by the old one, and give the old one into the Office, who would sign your *Plur' Habeas Corpoꝛa*; and you could not in such Case fill up a new Habeas Corpoꝛa upon a new Pannel, for then it was said to be Error; but this is altered by a late Act of Parliament; for which see before in the *King's Bench*. \*

\* Note, if  
 you carry  
 in your old  
*Habeas*  
*Corpoꝛa*,  
 you save  
 13 d.

You must carry your old Record, or Copy, in such case, to the Clerk of the Treasury, to be examined by the Roll, which if done in the Term time, will save Fees; for if it be out of Term, he will be paid for the Keys, and



and for going down to *Westminster* to examine it, &c. and he will make you a new Record ( if your old one be lost ) or else alter your old one, and seal it anew. The *Hab Corpor'* must be delivered to the Sheriff at the Assizes to return, and then it and the Record must be delivered to the Judges Marshal.

## Subpœna.

The Form of a *Subpœna ad Testificand.*

**G**uilielmus tertius Dei grā ( &c. ) N. B. C. D. E. F. & G. H. saltem p̄cipimus vobis & cuilibet v̄r̄m firmie injungendū Quod oibz aliis p̄termisissis & exculatione quacumq; cessand sitis in p̄p̄r' p̄sonā v̄r̄i ad Assisā apud [the place where the Assizes are held] in Com̄ S. die [the day when the Assizes are held] p̄xor' futur' tenend ad testificand & veritatem dicend in quadam Materia Controversie in Cur' nrā coram Justic' nrīs apud Westm̄ p̄pendend indeterminat in d. C. Quer' & N. B. nuper de C. in d̄co Com̄ S. Gen̄ Def. de placito transgr' Et hoc nullatenus omitatis nec aliquis v̄r̄m omittat Subpœna cujusslibet v̄r̄m centum Librar' Teste G. C. ( ut in al. )

\* If in *London*, say, coram G. C. Mil Capital Justic' nrō de Banco apud Guildhall London die, &c. ( the day of Sittings ) ad testificand ( &c. )

Com.Pleas.

If in *Middlesex*, say, coram *G. T. Mil*, &c.  
 . . . . die . . . . . apud *Westm* in  
*magna Aula* plitor<sup>4</sup> ibi vulgarit<sup>r</sup> nuncu-  
 pat *Westminster-Hall*, ad testificand<sup>u</sup>, &c.

See before in the *King's Bench* for a *Spa*  
 ad testificand<sup>u</sup> sur h<sup>2</sup>e de inquir de dampnis  
 [which may serve for the *Common Pleas* mu-  
 tat mutandis. Your *Subpæna* and Tickets  
 must be made out soon enough to be served  
 on the Witnesses to attend the Tryal.

## A Subpæna Ticket.

Mr. A. B.

BY vertue of a Writ of Subpæna to you  
 directed, and herewith shewed unto  
 you, you are personally to be and appear  
 before His Majesties Justices of Assize on

If for Lon- . . . next, being the . . . day of  
 don or Mid' . . . at . . . of the Clock in the  
 then before . . . noon of the same day, at the  
 G Treby Kt. Court then to be holden at . . .  
 &c. mutat. . . . to te-  
 mutandis.

stifie the Truth according to your Know-  
 ledge, in a certain Cause now depending,  
 and then and there to be tried between D.  
 E. Plaintiff, and A. B. Gent. Defendant in a  
 Plea of Trespass on the part of . . .

. . . . . And thereof you are not to  
 fail on pain of one hundred pounds. Dated  
 the . . . . . day of . . . . .

. . . . in the twelfth year of the Reign of  
 our Sovereign Lord *William* the third, by the  
 Grace of God, of *England, Scotland, France*  
 and

## Rolls and Judgments.

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and Ireland, King, Defender of the Faith, &c. *Com. Plea*  
*Annoque Dom. 1700.*

See before in the *King's Bench* Presidents, for a Ticket upon a *Spa ad testificand sur hze de Inquir' de dampnis*, and for notice of Tryal, and of not proceeding after notice.

How to make up the Rolls, and enter Judgment in the *Common Pleas*.

Make a Margent of an Inch, then rule your first Line about a Span from the Top of the Roll, and then enter your Declaration and Issue, or other Pleadings.

*Socius ff.*

*A. B. nuper de C. in Com pō Gen sum fuit ad respondend C. f. de placito qd reddat ei centum Libras, &c.* [And so on verbatim, as in the Declaration, to the end thereof] *Et inde producit Sextam, &c.* [And so consequently the rest of your Pleadings and Issue, beginning a new Line at each Plea, Replication, &c.]

Note, as to Judgments you enter only such as are had without Tryal, for the Clerk of the Judgments enters the other.

These Judgments without Tryal are by *Nil dic*, *Cogn Actonem*, and *Non sum Informatus*.

Com. Pleas.

And therein Note, After you have entred your Declaration (as before) then beginning a new Line, write,

*Nil dicit  
in Case  
without  
Assumpsit.*

Et p<sup>r</sup> M. B. [naming the Defendant] p  
C. D. Attor<sup>n</sup> suu<sup>m</sup> ven<sup>t</sup> & defend<sup>it</sup> vim &  
injur<sup>it</sup> quando, &c. Et nihil in barram  
sive p<sup>r</sup>clusionem Actonis p<sup>r</sup> C. dicit p  
quod idem C. remanet verlus p<sup>r</sup>fat<sup>u</sup> M.  
inde indefens<sup>u</sup> Ob quod idem C. dampna  
sua octone p<sup>r</sup>mis<sup>it</sup> verlus p<sup>r</sup>fat<sup>u</sup> M. recu-  
perare debeat Set quia nescitur que  
dampna p<sup>r</sup> C. sustinuit octone p<sup>r</sup>emis<sup>it</sup>  
ideo p<sup>r</sup>cept<sup>u</sup> est Dic<sup>it</sup> q<sup>uod</sup> per sac<sup>r</sup>dm p<sup>r</sup>bo<sup>r</sup>u<sup>m</sup>  
& leg<sup>r</sup>ium homin<sup>u</sup> de Com<sup>u</sup> p<sup>r</sup> dilig<sup>r</sup>ent in-  
quirat que dampna p<sup>r</sup> C. sustinuit tam  
octone p<sup>r</sup>mis<sup>it</sup> q<sup>uod</sup> p<sup>r</sup>o mis<sup>it</sup> & custag<sup>it</sup> suis  
p<sup>r</sup> ip<sup>m</sup> circa sc<sup>r</sup>ctam suam in hac parte ap-  
poit Et inquisitionem quam inde fecit Uic  
constare faciat Justic<sup>ie</sup> D<sup>n</sup>i Regis apud  
Westm<sup>onasterium</sup> a die Sc<sup>r</sup>o Michis in tres Septi-  
an<sup>as</sup> sup<sup>er</sup> sigillo, &c. & sigillis, &c.

*Writ of In-  
quiry of  
Damages  
awarded.*

*Assumpsit.*

Note, if it be upon an Assumpsit, then you say, octone non perfo<sup>r</sup>maco<sup>m</sup> p<sup>r</sup>omis-  
sio<sup>m</sup> & assumptio<sup>m</sup>, instead of octone p<sup>r</sup>-  
mis<sup>it</sup>, &c.

### **Nil Dicit in Trespass.**

You write as above verbatim, only for the words [octone p<sup>r</sup>mis<sup>it</sup>] you must say [oc-  
tione transg<sup>r</sup> p<sup>r</sup>].

## **Rolls and Judgments.**

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Com. Pleas.

### **In Assault.**

If in Assault, then [ ockone transgr & insult p<sup>o</sup> ] If in Assault and Imprisonment, ockone transgr' insult & imprisonmenti p<sup>o</sup> dice. ]

### **In Covenant.**

Ut supra usq<sup>ue</sup> — Ob quod idem C. dampna sua ockone fractonis Conventions p<sup>o</sup> versus p<sup>o</sup>fat A. recuperare debeat sed quia nescitur, &c. ( ut p<sup>o</sup> antea. )

### **Nil Dicit in Debt.**

Ut supra — reman<sup>et</sup> Plus p<sup>o</sup>fat A. inde indefens<sup>us</sup> I<sup>tem</sup> consideratum est qd p<sup>o</sup>dict C. recuperet versus p<sup>o</sup>fat A. D<sup>omi</sup>ni suu p<sup>o</sup>dict & Dampna sua ockone detentionis Debi<sup>ti</sup> illi ad quadraginta Solidos eidem quer<sup>it</sup> ex assensu suo p<sup>o</sup> Cui hic adjudicat Et p<sup>o</sup>dict A. in mia, &c.

Here let  
down the  
day Judg-  
ment was  
signed.  
Mia'.

**Nil**



A Writ of  
Inquiry a-  
warded.

A Writ of  
Possession  
awarded.

Ut supra usque — indefens Jō con-  
sideratum est qđ pđice E. recuperet ver-  
sus p̄fāt M. Terminum suum p̄dict  
de & in Manerio & Tenementis p̄dict [ac-  
cording to the Parcels in the Declaration]  
cum pertinē adhuc venturē & dampna sua  
occone transgrē & Ejectōn illi Set quia  
nescitur que dampna p̄dict M. sustinuit  
occasione transgrē & Ejectōnis p̄dict p̄-  
cepe est Dic qđ per Sac̄m̄ proborum &  
legitum hominū de Com̄ suo p̄dict diligē-  
tē inquirat que dampna p̄dict E. su-  
stinuit tam occone transgrē & Ejectōnis  
p̄dict quam pro missis & custag' suis per  
ipm̄ circa sectam suam in hac parte ap-  
positis Et Inquisitionem quam, &c. Dic  
constare fac̄ hic a die Scđ Michis in tres  
Septimanas sub sigillo, &c. & sigillis, &c.  
Idem dies dāc est p̄fāt E. hic, &c. Et  
super hoc idem E. per Breve Dñi Regis  
Dic Com̄ p̄dict dirigendū de here faciendū  
ei possessionem Termini sui p̄dict adhuc  
venturē de & in Manerio & Tenementis  
p̄s cum pertinē Et ei concedit̄ retornabile  
hic ad p̄fāt Terminum, &c.

See for the Writ of Possession after.

*Nil dicit cum remittit Dampn.*

If your Judgment be with a remittit dampna, then after the words inde inuolens, add *Itē cons est qđ pđice C. recuperet Plus p̄lat A. terminū suū pđice de & in Manerio & Tenentis pđice cum p̄tīd adhuc ventur & dampna sua octone Cūlgr & Ejectōd pđice sibi adjudicari, &c. Et supinde pđice C. gratis hic in Cūl fatetur se ulterius nolle psequi versus p̄lat A. p aliquibus dampnis ei octone Cūlgr & Ejectōd p̄d adjudicans set omnia humōi dampna ei sic adjudicans gratis hic in Cūl remittit & relaxat Itē p̄d A. de eisdem dampnis sit quies Et eat inde sine die, &c. [ \* || Nilominus p̄d A. ad finem cum Dñs Regē octone Cūlgr & Ejectōd illi faciend capiatur, &c. ] Et super hoc pđict C. p̄ce h̄c Dñi Regis Dic Comd pđice dirigend de here faciend ei possessionem termini p̄d de & in Manerio & Tenementis p̄dicte cum p̄tīd adhuc ventur Et ei conceditur retrognabile hic a die Scđ Michis in tres Sepe, &c.*

|| Note, this Clause is now left out.

\* The Act of Parliament 5 & 6 W. & M. says 6 s. 8 d. shall be paid upon signing Judgment to the proper Officer, who signeth the same in full satisfaction of the Capiatur Fine, and all Fees due for or concerning the same. Which said Officer shall make an increase to the Plaintiff of so much in his Costs to be taxed against the Defendant.

Cogn

## Cognitio Actio.

Et p̄dice A. p B. Attor̄m suum veni & defendi vim & injuri quando, &c. Et dic qd ip̄d non potest dedicere Actonem p̄dice C. p̄dict nec quin ip̄d debet eid C. p̄dice 10 l. [ If upon Bond, then say, Et dic qd ip̄d non potest dedicere quin scriptum obligatorium p̄dice est factum ipsius A. nec quin ip̄d debet eidem C. p̄dict 10 l. ] modo & forma put p̄dice C. superius versus ed narrabit It̄ cons̄ est qd p̄dice C. recuperet versus p̄fat A. debum suum p̄s & dampna sua octone detent̄onis debi illi ad \* 40 s. 6 d. eidem C. ex assensu suo p Cur̄ hic adjudicat Et p̄d A. in Quid, (&c.)

Sign' die  
An. W. 3.  
R. 12.

Mia'.

\* Note, The Common Costs are 40 s. unless it be by Original, and then usually 50 or 60 s.

Note, That upon a Judgment by Warrant of Attorney, there is no need of an Original, if the Plaintiff have a Release of Errors.

If the Defendant hath pleaded p̄minas or p̄dures to the Parr', and the Plaintiff replies qd fuit sui juris ad largum; and Issue thereon; and after this the Defendant is minded to confess the Action, then enter it thus :

Ad quem diem coram Dño Rege apud Westm̄ veni partes p̄dice p Attor̄m suos p̄dice Et super hoc p̄dice A. relicta verificatione

Relicta verificatione.

catione sua p̄dice p ipm̄ superius p̄tenā Com. Pleas.  
 dic qd ip̄ non potest dedicere actionem p̄d Cogn' Ac-  
 C. p̄dice nec quin ip̄ tempore confectōm con'.  
 scripti p̄dice fuit sui iuris ad largum Et  
 scriptum illud ex mera & spontanea vo-  
 luntate sua p̄fac C. fecit & non ob metu  
 minarum put ip̄ p̄dice A. interius alle-  
 gavit Nō cons̄ est qd p̄dice C. recuper, &c.  
 (ut antea.)

If after Non est factum pleaded, then say,  
 as next before usq; Nec quin scriptum p̄dice  
 sit factum ipsius A. nec quin ip̄ debet p̄fac  
 C. p̄ 10 l. modo & forma put p̄ C. supe-  
 rius vers̄ eum queritur Nō, &c. (ut su-  
 pra.)

### Non sum Informatus in Case.

Et p̄dict A. B. p C. D. Attozū suum  
 veni & defens̄ vim & injur' quando, &c. Et  
 idem Attozū dic qd ip̄ non est inform̄ p  
 eund̄ A. (\*Magrū suū) de aliquo respons̄ \* Note,  
 p eos A. p̄fac C. in loquela p̄dice dand̄ Et Some leave  
 nichil aliud inde dic per quod idem C. re- our Magrū  
 manet vers̄ p̄fac A. inde indefens̄ — Ob suū.  
 quod idem C. dampna sua octōne p̄miss. Writ of  
 s̄lus p̄fac A. recuperare debeat set quia Inquiry  
 nescitur que dampna p̄dice C. sustinuit awarded.  
 octōne p̄miss. p̄cept̄ est Dic qd per Sacrd̄  
 p̄bozū & legalium hominū de Corā p̄d  
 diligene inquirat que dampna p̄dict C.  
 sustinuit tnd̄ octōne p̄miss. qm̄ p̄ miss̄ &  
 custaḡ luts p ipm̄ circa sectam suam in  
 hac parte appoie Et Inquisitionem qm̄  
inde

Com Pleas. inde fecit Dic constare faciat Iusticiariis  
 Dñi Regis apud Westm a die Scd Michis  
 in tres septimanas sub sigillo, (Ec.) &  
 sigillis, (Ec.)

## In Covenant.

Write as above usq; — Ob quod idem  
 C. dampna sua occione fractonis conven-  
 tionē pdice versus pstat A. recuperare debeat  
 set quia nescitur que dampna idem C.  
 sustinuit occione fractonis conventio p  
 pcepte est Dic qd p sacm pboz & legalit  
 hominū de Com pdice diligene inquir, Ec.  
 (ut antea.)

## In Debt.

Write as first above usq; — inde inde-  
 fens Jo cons est qd pō C. recuperet versus  
 pstat A. debum suū pdice & dampna sua  
 occione detentonis debi illi ad 40 s. eidm C.  
 ex assensu suo p Cur' hic adjudicet & pō  
 A. in Aid (Ec.)

Mia.

## In Ejectment.

Write as above usq; inde indefens — Jo  
 cons est qd pdice C. recuperet versus pstat A.  
 terminum suū pdice [or possessionem ter-  
 mini sui pdice] de & in Manio & Centis  
 pdice cum pertiū adhuc ventur Acciam  
 idem C. dampna sua occione Tūlgr' & E-  
 jectonis pdice recuperare debeat Set quia  
 nescitur que dampna idem C. sustinuit  
 occione



occone Transge & Ejecton p̄cept est Dic CommPleas.  
 &c. ( as before in Nil dicit in Ejectment.

If you have occasion for a Remitt dampn,  
 Enter as before by Nil dicit.

In Trespass.

The same as first above, only for (occone  
 p̄miss.) you must say ( occone Transgi p̄ )  
 with a Writ of Inquiry.

In Trespass and Assault.

You must say—occone Transge & Insul  
 sile p̄dict.

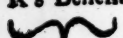
In Trespass, Assault and Imprisonment.

—Occone Transgi Insule & Impriso-  
 namene p̄dicit.

Of Docquets.

**N**Ote, in the Common Pleas, when you  
 carry in your Rolls, you must Doc-  
 quet your Judgments and Entries on the  
 Dockquet of that Term of which they are  
 Entred, which is kept in the Office, (viz.)

Nil

K's Bench. *Nil dicit, or Non informd* (as the Case is)  
 over-head thus :

*Non Informd in Debo.*

*Widow R. Dottin p Jones*

*Carpenter p Clarke*

} *Roe 125.*

And so for the rest, as you will see by the  
 Docquet . . . . . *Roe dco. Et.*

And Note, You may search the Dockets  
 to find any Judgment you have occasion for;  
 but this is not soon found, unless you know  
 the Attorney's Name that entred it.

But if you search with the Clerk of the  
 Essoyns, you may easily find it; for he keeps  
 an Alphabetical Table for that purpose, of  
 the Parties Names.

Also Note, That when a Verdict is had  
 at a Tryal in the Countrey, you get the  
*Postea* return'd from the Clerk of the *Postea's*,  
 then stamp it and carry it to the Prothono-  
 tary to sign Judgment, and tax Costs. After  
 which he gives it to the Clerk of the Judg-  
 ments, who keeps it to enter up the Judg-  
 ment on the Roll.

## Writ de Inquir.

**G**uilielmus tertius Dei gra Ang<sup>l</sup> Scot Franc & Hibnie Rex fidei detens, (Ec.) Die S. saltem Cum A. B. nuper de C. in Com tuo Yeoman attach esset essendi in Cur nra coram Justie nra apud Westm ad respondens C. D. de p<sup>l</sup>ito Quare cum, Ec. (as in the Original or Declaration [only instead of the Year of the King you say Anno regni nrd (Ec.) to) Ad dampnum ipsius C. viginti librarum ut dicitur Taliterq; in ead Cur nra p<sup>l</sup>cessum est qd p<sup>l</sup>dice C. dampna sua octone p<sup>l</sup>miss. vera p<sup>l</sup>lac A. recuperare debeat Sed quia nescitur que dampna p<sup>l</sup>dict C. sustinuit octone p<sup>l</sup>miss. (or octone non p<sup>l</sup>formaton p<sup>l</sup>mission & assumpton (Ec.) if in Assumpsit) Tibi p<sup>l</sup>cipimus qd per Sacrd p<sup>l</sup>bozum & leglium hominum de Com tuo diligene inquir que dampna idem C. sustinuit tnd octone p<sup>l</sup>miss. qm p<sup>l</sup>miss & custas suis p<sup>l</sup> ipm circa sextam suam in hac parte apposit Et inquisitionem quam inde feceris constare fac Justie nra apud Westm [the Return] sub sigillo tuo & sigillis eorum p<sup>l</sup> quoz Sacrd Inquisition<sup>l</sup> ill feceris Et hoc Writ teste Georgio Creby Mil apud Westm 19 die Junij Anno Regni nrd duodecimo.

A Writ of Inquiry.

This Writ must be signed by the Prothonotary.

You must give notice of the executing of this Writ, after the same manner as is observed before in the King's Bench.

In Case

Assu-

pfit.

Alis' sur  
proccas.

**G**uilielmus etius Dei gra Angl Scoe  
franc & Hibnie Rex, fidei defens  
(Et.) Dic S. saltem precipimus tibi qd  
capias A. B. nuper de C. in Com tuo  
Yeoman si indene fuerit in Ballia tua Et  
eid salvo custos ita qd heas corpus ejus  
coram Justic nra apud Westm (the Re-  
turn) Ad satisfaciend C. D. de decem li-  
bris & novem solidis qui eidem D. in ead  
Cur nra coram Justic nra apud Westm  
[If in Case say, Adjudicat' fuer' pro dampnis  
suis que sustinuit occasione cujusdam Transgr'  
super Cas' eidem C. per prafat' A. apud E. in  
Com' tuo fact' & illat' Unde (Et)] Adju-  
dicat' fuit p dampnis suis que huit oc-  
casionem cujusdam pmission' & assumptio-  
nem eidem D. p pfac A. apud E. in Com tuo  
face non performat Unde convict' est Et  
heas ibi hoc bpd Teste G. Treby, Et. ( ut  
in al. )

• If in Covenant.

Say as before and after the words pro  
dampnis suis que huit, say occasione cujus-  
dam conventio-  
nem in eos face scdm vim  
formam & effectum quarundam Indentur (or  
quorundam articuloꝝ as the Case is ) inter  
eos confect' face Unde convicte est Et heas  
(Et. ) ut in al. )

## Ca Sa in Debo.

Ad satisfaciendū C. D. tam de quodam  
debo viginti librū quod idem C. D. in Cur  
nra coram Justiciis nris apud Westm̄ recu-  
perabit versū eum qm̄ de quadraginta so- \* 40 s.  
lid \* qui eidē C. D. in eadē Cur nra ad- common  
judicat fuit p dampnis suis que huius oc-  
casionē detentōn debi ut illi unde convicit est  
Et heas ibi hoc bꝛ Teste, &c. (ut in al.)

Costs, if by  
Orig. 50  
or 60 s.  
when  
Judgment  
by Conies-  
tion.

## Testatum Ca Sa.

Write as before in the other Ca Sa (on-  
ly directing to another County, and making  
a new Retorn) Unde convicit est Et unde  
hic nri S. mand Justiciis nris apud Westm̄  
(in Crō \* Ascensōn Dni) ule pterit qd \* The Re-  
pdict A. B. non est inveniē in Ballia sua turn in the  
cum testatum sit in eadem Cur nra quod first Ca. Sa.  
latie vagae & discurr in Com tuo Et heas upon which  
(&c.) Teste (&c.) the Testat.  
is ground-  
ed.

## Ca Sa in Trespals and Assault.

Ad satisfaciendū C. D. de decem libris  
qui eidem D. in cur nra coram Justiciis  
nris apud Westm̄ adjudicat fuit p dam-  
pnis suis que sustinuit occasione quarun-  
dam Cūlgr̄ & insule in ipm̄ C. D. p pſae  
A. vi & armis ac contra pacem nostram  
apud B. in Com tuo face Unde convicit est  
Et heas ibi hoc bꝛ Teste, &c. (ut in al.)



## Upon a Nonsuit in Case.

Ad satisfaciendū A. B. nup de (Ec.) gen  
de centum solidi qui eidem A. B. in Cur'  
nrā corā Justic nrā apud Westm per  
discretionē eorundē Justic nostrorū ad-  
judicac fuer' p mis & custag suis que su-  
stinuit in quodam plito Cūge sup casum  
p pfac C. D. Glus eundem A. B. in eadem  
Cur' nrā impetrac secundum formam  
Statuti inde edit & probis erga partes  
Quer' que brevia sua in humōi plitis non  
ps aut in eisdem pclus forēt Unde con-  
vict est Et heas ibi hoc hō Teste, Ec. (ut  
in al.)

## Sile in Debo.

Ad satisfaciendū A. B. nup de (Ec.) gen  
de centum solidi qui eidem A. in Cur' nrā  
corā Justic nostris apud Westm per  
discretionem eorundem Justic juxta for-  
mam Statuti inde edit & pbis adjudicac  
fuer' p mis & custag suis que sustinuit p  
eo qd pdice C. D. non est psecut hōd suū  
per eundem C. in quodam plito debi sup  
demandi 40 l. versus pfac A. in Cur' nrā  
impetrac Unde convict est Et heas, Ec.  
( ut in al.)

Upon

## Upon the Plaintiff's Nonsuit at the Assizes.

As next before usq; — p mis & custag  
suis que sustinuit p falso clamore pdice C.  
in quodam plito debi sup demand 40 l.  
per eund C. Glus pfat N. in Cur' nra pro-  
secue Unde condict est Et heas, &c. ( ut  
in al. )

## Upon a Nonsuit in Ejectment.

Say as before in debo usq; — p mis &  
custag suis que sustinuit p eo qd' pd' C.  
non est psecue h' suum in quodam plito  
Cnlg' & Ejecton firme p eundem C. Glus  
pfat N. in Cur' nra pdice impetrat Unde  
condict est Et heas, &c. ( ut in al. )

## Upon a Nonsuit in Trespass.

As next before, only say, que sustinuit  
eo qd' pdict' C. non est psecue h' suum in  
quodam plito Cnlg' per ipsum C. &c. ( ut  
in al. )

Ca' Sa' against an Executor de Bonis pro-  
p'is upon a Debastabit Returned by the  
Sheriff.

Saktem pcepimus tibi qd' capias C. f.  
Executorem Testamenti A. B. si invent  
fuit in Ballia tua & eum salvo custod'  
ita qd' habeas corpus ejus coram Justic  
nra apud Westm' — Ad satisfact C. D. <sup>\* The Re-  
torn.</sup>  
tam

Com. Picas. tam de quodam debo 30 libr quod idem C.  
 in cur nra coram Justie nostris apud  
 Westm — recuperabit vers eum quam  
 de 30 solidis & sex denar qui eis C. in ead  
 cur nra adjudicat fuer p dampn suis que  
 habuit octone detenton debi ill unde con-  
 vice est Et unde cons est in eadem cur  
 nra qd pdice C. heat Executonem versus  
 pfae C. f. Executorem de debito & dam-  
 pnis pdice de bonis & catallis ipsius C.  
 f. ppi levans Et qd pdict C. f. diversa  
 bona & catalla que fuer pfae A. B. Te-  
 statoreis tempore mortis sue ad balenciam  
 debi & dampnoꝝ pdice que ad manus pd  
 C. f. post mortem pdice A. B. admini-  
 strans debeneri deballabit Et in usum suu  
 ppi convertit & disposuit put tu ipse Ju-  
 stie nra apud Westm (such a Retorn) ule  
 pterit mand Et heas ibi hoc bꝛe Teste,  
 &c. (ut in al.)

Note, That upon a Judgment against an  
 Executor or Administrator, a **Ca Sa**  
 ought not to issue out, but a **fd fa de**  
**Bonis Testatoris**; Except a **Deba-**  
**stabit** be returned, and then a **Ca Sa**  
 lies against the Body, or a **fd fa a-**  
 gainst their Goods.

Fieri

fieri facias in Case sur Promiss. non  
performar.

**G**uilielmus etius Dei gra Angl Scoe  
franc & Hibernie Rex fidei defens'  
Ec. Dic S. saltem precipimus tibi qd de  
bonis & catallis A. B. nup de (Ec.) in  
Ballia tua fieri fac decem libras que  
C. D. in cur' nra coram Justie nra apud  
Westm \* adjudicac fuer p dampnis suis  
que huc octone quarund pmission & al-  
sumpton eis C. p pfac A. apud E. in Com  
tuo face non pformar Et denar' ill heas  
coram Justie nra apud Westm in cro sed  
Trin ad reddens pfac C. de dampn punde  
condice est Et heas ibi hoc bpe Teste, Ec.

\* Alit. in  
cas' (adju-  
dicat' fuer  
pro dam-  
pnis suis  
que susti-  
nuit oc-  
cone cu-  
jusdam  
transgr'ss

per Cas' eidem C. per pfac' A. apud E. in Com tuo fact' & illat' Un-  
de convict' est Et denar' ill' habeas, &c. ( ut in al. )

### For Words.

Octone dictonis & ppalaconis quozun-  
dm verb4 scandaloso4 p qdice A. de pfac  
C. apud E. in Com tuo Et denar' (Ec.)

### In Covenant.

Say as before usq — pro dampnis suis  
que huc octone cujusdm conventon inter  
pdice A. & pfac C. face scdm vim formam  
& effectum quozundm Articulo4 [or quarun-  
dam Indentur, &c. as the Case is] inc eos  
confere frace Et denar' ill' heas, Ec. (ut  
antea.]



Fi' Fa'.

In Debt.

*Alias  
diff', &c.  
if upon a  
Specialty.*

Willus, &c. (ut antea) — precipimus tibi  
qđ de bonis & catallis A. B. nuper de E.  
in Com' tuo gen' in Ballia tua fieri fac  
tam quoddam debum 40 l. quod C. D. in  
Cur' nra coram Justic' nris apud Westm'  
recuperabit vers' eum quam 40 s. qui  
eidem C. in eadem Cur' nra adjudicat  
fuer' p dampnis suis que huit occone de-  
tentonis debi illi Et denar' illi heas, &c.  
( ut in al. ) — ad reddend' pfac' C. de debto  
& dampnis p'dice Unde condice est Et  
heas, &c.

In Ejectment for Damages.

Willus, &c. — Fieri fac 10 l. que C. D.  
in Cur' nra coram Justic' nostris apud  
Westm' adjudicat fuer' p dampn' suis que  
sustinuit occone cuiusdam Tñlgr' & Eje-  
ction' firme pfac' C. p p'dice A. Vi & armis  
& contra Pacem nostram apud E. in Com'  
tuo illac Et denar' illi heas, &c. ( ut antea  
in Case. )

In Trespass.

— Occone cuiusdam Tñlgr' eidem C. p  
pfac' A. Vi & armis ac contra Pacem  
nostram apud E. in Com' tuo illac Et de-  
nar' (&c.) de dampnis (&c.)

In



Fieri Fac'.

297

Com. Pleas.

In Replevin.

Oetone captonis & injuste detentonis  
Averioꝝ ipsius (Quer') apud G. in quo-  
dam loco voc' G. unde convicte est Et heas  
ibi, &c.

Testas Fieri fac in Debt.

Write as before in a General Fieri fac  
in Debt usq; — Convicte est Et unde Dic  
ni S. \*mandi Justie nris apud Westm in  
Quinden Pas ule pte Os pdice A. nulla  
het bona seu Catalla in Ballia sua un-  
de Debm aut Dampn pdice aut aliquam  
inde parcell fieri seu levare facere potuer  
Cum Testatn sit in eadem Cur nra Os  
idem A. satis het de Bonis & Catallis  
in Com tuo unde Debm & Dampna p  
fieri & levare facere possint Et heas ibi  
hoc bꝛd Teste, &c.

\* Sheriff  
of the  
County in  
the first  
Writ, and  
Return  
thereof.

fd fa against an Administratrix.

Precipimus tibi quod de Bonis & Ca-  
tallis que fuer' R. G. qui obiit intestat  
ut dicitur tempore mortis sue in manib'  
N. G. Vid Administrat' Bonorum &  
Catalloꝝ que fuer' ejusdem R. existent  
in Ballia tua fieri fac tnd quoddam De-  
bm 10l. quod J. S. Gen in Cui nra  
cozam Justie nris apud Westm recupa-  
bit versus eamquam Vagine Denar' qui  
idem J. in ead' Cur' nra adjudicac fuer'  
pꝛo

And so of  
an Admi-  
nistrat'or.  
mutat'  
mutand'.

**Com. Pleas.** pro dampnis suis que huius occasione deten-  
**com.** Debi illi si eadem A. tanta bona &  
 catalla que fuerint p'dice R. tempore mor-  
 tis sue in manibus suis administrand'  
 heat Et si non heat tunc dampnū p'dice de  
 bonis & catallis p'dice A. propri' levand'  
 Et Denar', &c. (ut in al.)

Note, If any Executor plead ne Unques  
 Executor, and if it be found for the  
 Plaintiff, the Fieri fac shall be de Bo-  
 nis propriis. But if he plead plene  
 Administrabit, and it be found for  
 the Plaintiff, then the Fieri fac shall  
 be of the Goods of the Testator.

Fieri fac verlus Executor in Covenant.

—Precipimus tibi qd de bonis & catal-  
 lis J. B. (&c.) in manibus W. B. & R.  
 B. Executor Testamenti ejusdem J. B.  
 in Ballia tua existent fieri fac tam Cen-  
 tum Libras quas A. M. in Curia nra coram  
 (&c.) apud Westm' adjudicat' fuer' pro  
 dampnis suis que huius occasione fractonis  
 cujusdam Conventonis inter prefat' J. B.  
 defunct' & prefat' A. facte quam quinque  
 Marcas que eidem A. in eadem Curia  
 nra adjudicat' fuer' pro misis & custagiis  
 suis p' ipm circa sextam suam in hac parte  
 appoit' si iidem W. B. & R. B. tanta  
 bona & catalla que fuer' J. B. tem-  
 pore mortis sue in manibus suis admi-  
 nistrand' habeant. Et si non habeant tunc  
 dampnū p'dice p' misis & custagiis suis de  
 Bonis

Bonis & Catallis ipoꝝ p̄dice W. B. & R. Com. Pleas.  
B. p̄p̄r' lebano Et Denar' illi, &c. (ut in al.)

Fieri Fac' per Defale, after Nichil retorn-  
ed on Scire Fac' post annum & diem.

—Unde Convice est Et unde cons' est in  
eadem Cur' nra coram Justic' nris apud  
Westm' Ds p̄dice W. habeat executionem  
versus p̄fiae C. per ipsius C. defale Et  
habeas, &c.

Fieri Fac' de Bonis propriis post deba-  
stabit retoꝝ p̄ inquisitionem.

Willus, (&c.) saltem p̄cipms tibi qd de  
bon' & catall' J. S. Executor' Testi C. S.  
in Ballia tua fieri fac' tñ quoddam De-  
hum Centū & Sexaginta Libꝝ quod  
W. A. Ar' in Cur' nra coram Justic'  
nris apud Westm' recupabit versus p̄-  
fiae C. in vita sua quam Sexaginta Solis  
qui eidem W. in Cur' nra adjudicat fuer'  
p̄ dampnis suis que huit octone deten-  
con' Debi illi Et Denar' illi heas coram  
Justic' nris apud Westm' in Octab' Scd  
Hill ad reddend' p̄fiae W. de Debo &  
Dampn' p̄dice Unde p̄dice C. in vita sua  
convice fuit Et unde cons' est in eadem  
Cur' nra coram Justic' nris apud Westm'  
qd p̄dice W. heac execucon' versus p̄fiae  
J. de Debo & Dampn' p̄dice de bonis &  
catallis p̄dice J. propriis lebano p̄ ipsius  
J. defale eo qd p̄d J. diversa bona & ca-  
talla que fuer' p̄dice C. tempore mortis sue  
in

**Com. Pleas.** in manibus suis administrandū ad Valenc  
 ~~~~~ Debi & Dampnoꝝ p̄dice vendidit & ad  
 usum suum p̄opr' convertit & disposuit  
 put p̄ quandam in Inquisitionem indentae  
 coram Vob̄ apud — Ec. — die — ule p̄tie  
 per Sacrm̄ p̄boꝝum & leglium hominū  
 de Ballia tua cape (a die Sc̄d Martini  
 in quindecim dies) ule p̄tie retorne coram  
 p̄fiae Justie nris apud Westm̄ de Recorde  
 remanendū plenius liquet & apparet Et  
 heas ibi hoc h̄d Ceste, ec.

## Elegit in Debo.

**G**uilielmus, Ec. Dic sc̄tem cum A.  
 B. nuper in Cur' nra coram Ju-  
 stie nris apud Westm̄ per Cons̄ ejusdem  
 Cur' recuperasset vers̄ C. D. nuper de, (Ec.)  
 tam quoddam Debum Ducentaꝝ Libraꝝ  
 qm̄ Cene Solis qui eidem A. in eadem  
 Cur' nra adjudicac fuer' p̄ dampnis suis  
 que habuit or̄tone detent' Debi illi unde  
 Conbice est idem A. postea vend in ead  
 Cur' nra Et p̄ Statue inde p̄bia. Elegit  
 sibi liberari omnia Bona & Catalla p̄dice  
 C. p̄ter Bobes & Affros de Caruca  
 sua & filie medietae omninū Terraz &  
 Ten̄toꝝ suoz in Ballia tua Tenend sibi  
 Bona & Catalla p̄dice ut Bona & Catal-  
 la sua p̄opr' ac etiam tenend medietae  
 p̄dice ut libum Tenementum suum sibi  
 & assign' suis juxta formam Statuti p̄  
 quousque Debm̄ & Dampna p̄dict inde  
 levaverit Et Nō tibi precipimus qd om-  
 nia Bona & Catalla p̄dice C. p̄ter Bo-  
 bes

ves & Alfros de Caruca sua Et filie me- Com. Pleds.  
 dietat omnium Terra & Cento<sup>4</sup> suo<sup>4</sup> in  
 Ballia tua de quib<sup>9</sup> idem C. (in Crō Scē  
 Trin<sup>o</sup> Anno rñd nrd<sup>o</sup> Septimo) quo die Ju-  
 diciū inde reddie fuit vel ungm<sup>o</sup> postea fuit  
 seisie pzetat A. sine dilone libari fac p rō-  
 nabile pzetid<sup>o</sup> & extene Tenend<sup>o</sup> sibi Bona &  
 Catalla p<sup>o</sup>dice ut Bona & Catalla sua pro-  
 pria Ne eciam tenend<sup>o</sup> medietat p<sup>o</sup>dice ut  
 libum Centum suum sibi & Assign<sup>o</sup> suis  
 iuxta formam Statuti p<sup>o</sup>dice quousque  
 Debm<sup>o</sup> & Dampna p<sup>o</sup> inde levaberit Et  
 qualie hoc p<sup>o</sup>cepte nrd<sup>o</sup> fueris execue con-  
 stare fac Justie nris apud Westm<sup>o</sup> a die  
 Scd Michis in tres Septianas sub Si-  
 gillo tuo & Sigillis eo<sup>4</sup> per quo<sup>4</sup> Sa-  
 crm<sup>o</sup> Extent<sup>o</sup> & app<sup>o</sup>ciationem illi feceris &  
 hoc h<sup>o</sup>d<sup>o</sup> Teste Georgio Treby Mil, &c.

Elegit for Damages in Trespass.

Cum A. B. nuper in Cue nrd<sup>o</sup> coram,  
 (Ec.) per Cons<sup>o</sup> ejusdem Cui habeat Plus  
 C. D. nuper de (Ec.) execucionem de Vi-  
 ginti Libris quas eidem A. in eadem Cui  
 nrd<sup>o</sup> adjudicat fuit p Dampnis suis que  
 sustinuit oclone cujusdam transgr<sup>o</sup> eidem  
 A. per p<sup>o</sup>fat C. Vi & armis ac contra Pa-  
 cem nram apud C. in Com<sup>o</sup> tuo illac un-  
 de convict<sup>o</sup> est Idem A. postea ven<sup>o</sup> in ead<sup>o</sup>  
 Cui nrd<sup>o</sup> (Ec. ut antea usque) quousque  
 Dampna p<sup>o</sup> inde levaberit Iō tibi p<sup>o</sup>ripti-  
 mus qd omnia Bona & Catalla que fuer<sup>o</sup>  
 p<sup>o</sup>dice C. (tli die)—ult<sup>o</sup> p<sup>o</sup>tie quo die p<sup>o</sup> A.  
 execucion<sup>o</sup> Judicij p<sup>o</sup> p<sup>o</sup>ius est affectue Et  
 filie



Com. Pleas.

filie medietate omnium Terrarum & Tenitorum  
de quibus idem C. sive aliqua persona sive  
p[er]sone ad usum ipsius C. (t[er]ti die) vel unquam  
postea seise fuit p[re]sentat A. sine dilone deli-  
bari fac, &c. (ut antea.)

## Elegit after an Elegit.

Willus, &c. (as before, reciting the first  
Elegit usque) — quousque Debitum &  
Dampna p[re]dicte inde levabit Et qualiter  
illud p[re]ceptum nostrum foris executi constare  
fac Justicie nostris apud Westm[onasterium] in Octava  
Sancti Hilarii ult[im]e p[ar]tie Cuius Justicie nostris apud  
Westm[onasterium] ad diem illi mand[atum] quandam In-  
quisitionem coram te apud Cast[rum] C. (t[er]ti  
die) ult[im]e p[re]sentie per sacrum duodecim, &c.  
cape per quam compe[re] existit q[uo]d p[re]dicte C.  
fuit seise de Manio, &c. [reciting the Re-  
turn of the Inquisition] super quo p[re]dicte A.  
venit in ead[em] Curia nostra dicent[em] quod p[re]dicte C.  
tempore Iudicii p[re]dicte reddidit & postea  
huit diversa Terras & Centa in Com-  
tuo ad annuum valorem Quadraginta Libris  
ultra p[re]sentem Manio, &c. in Inquisitione p[re]dicte  
supius specificat Accedens possessionariis fuit  
de diversis bonis & catallis in Com-  
tuo ad valorem Triginta Libris que tunc  
extendi & app[re]ciari ac p[re]sentat A. libari po-  
tuit Et It[em] tibi p[re]cipimus sicut plurius  
tibi p[re]cipimus quod o[mn]ia bona & catalla  
p[re]sentem C. p[re]ter Bobes & Alfos de Caruca  
sua & filie medietate o[mn]iu[m] Terrarum & Ten-  
torum ipsius C. in Com[itatu] tuo ultra p[re]dicte Ma-  
ner in Inquisitionem p[re]dicte supius spec[ificat]  
quibus

quibus idem C. tempore Iudicii prædicti redditus vel unquam postea seiscie vel possessus fuit necnon medietate Manerioꝝ in Inquisitione prædicta specificat præfatus A. libari fac per rationabile pretium et extens tenendum ut librum Centum suum sibi et assignis suis iuxta formam Statuti prædicti quousque Debum et Damna prædicta inde levaverint Et qualiter hoc preceptum nostrum fueris executi consistare fac Justicie nostris apud Westm.— sub Sigillo tuo et Sigillis eorum, &c. (as before.)

A Writ of Possession.

**G**uilielmus tercius Dei Gra. Angli Scotie Francie et Hibernie Rex fidei Defensor, &c. Vic. S. Saltem Cum A. B. nuper in Curia nostra coram Justicie nostris apud Westm per considerationem ejusdem Curie recuperavit Terminum suum adhuc venturum de et in duobus Meluagiis cum pertinentiis in E. in Com. tuo versus C. D. nuper de F. in Com. tuo Gen. que G. H. Apud primo die Aprilis Anno Regni nostri sexto præfatus A. dimisit habendum et occupandum Centum prædictum cum pertinentiis sibi et assignis suis a vicesimo primo die Ian. tunc ult. parte usque plenum finem et Terminum Quinque Annoꝝ extunc proꝝ sequens et plenarie complendum et finiendum qui nondum preterit Et unde prædicta C. ipsum A. a possessione sua inde expulit et amovit ac eundem A. a firma sua prædicta eiecit Et Itē tibi precipimus Quod præfatus A. possessionem suam Tanti

Com. Pleas.

**T**ibi sui pō adhuc ventur de & in Teñtis  
 pō cum pertisi sine dilatione here fať Et  
 qualie hoc pcept nrm fueris exerce con-  
 stare fať Justit nris apud Westm a die  
 Sed Michis in tres Septidnas Et heas  
 ibi hoc bñd Teste, &c.

**Fieri fať for Costs upon a Writ of Possession.**

If you add a **Fieri fať for Costs**, after the return of the Writ say, — **Precipi-**  
**mus etiam tibi quod de Terris & Ca-**  
**tallis pō C. in Balia tua fieri fac sex**  
**Libras & decem Solidi qui eidem A. in**  
**eadem Cui nra adjudicac fuer p Damp-**  
**nis suis que hui octone transge & Ejection**  
**pōdice Et Denar' ill heas coram Justit**  
**nris apud Westm ad pñfat Termin ad**  
**reddend pñac A. p Dampnis pō unde**  
**conviť est Et heas ibi hoc bñd Teste, &c.**

*Officers*

## Officers.

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Com-Pleas

### *Officers of the Court of Common-Pleas.*

**T**HE Lord Chief Justice, and three other Judges.

The Custos Brevium.

The three Prothonotaries.

The three Secondaries.

The Philizers of Shires.

The Master of the Seal.

The Clerk of the Enrolments, Warrants and Estreats.

The Clerk of the Effoins.

The Clerk of the Outlawries, and his Under-Clerk.

The Clerk of the Supersedeas.

The Exigenters.

The Clerk of the Juries.

The Chirographer for Fines, and his Clerks.

The Clerks at the Alienation Office.

The Clerk of the King's Silver.

The Clerk of the Treasury, and his under Clerks.

The Clerk of the Errors.

The Marshal Usher and Chief Proclamator.

The other Cryers of the Court.

The Porter of the Court of Common-Pleas.

The Keeper of the Treasury.

The Warden of the Fleet.

The Clerk of the Fleet.

The Tipstaff.

The Prothonotaries Clerks.

The Attorneys of the Court.

X

Attach

## Attach Privileg.

For an Attorney of the Common-Pleas.

**G**uilielmus tercius Dei Gra, &c. Vitz  
S. saltem Attach C. D. E. F. (&c.)  
ita quod eos habeas coram Justit nris a-  
pud Westm die \* — pr' post — Ad re-  
spondend' A. B. Gen' und Attorn' Cur' nre  
de Banco juxta libtas & privileg ejusdem  
Cur' p humod Attorn' ac aliis Ministris  
de eodem Banco a tempore quo non ex-  
istit memoria usitae & approbat in eadem  
de placito transgr' \* Et habeas ibi hoc  
h2d Teste, &c.

\* Day cer-  
tain.

\* Note de  
placito  
transgr'  
is enough  
for Fees.

For the Chief Prothonotaries Clerk.

Cook

Ad respondend' A. B. Gen' und Clico<sup>4</sup>  
Johis Cook Ar' Capitalis Prothonota-  
rij Curie nre de Banco juxta libtas &  
privileg ejusdem Cur' p humoi Clericis  
& al Ministris de eodem Banco a tempore  
quo, &c.

Second Prothonotaries Clerks.

Winford.

Ad respondend' A. B. und Clico<sup>4</sup> Thome  
Winford Ar' scdi Prothon' Cur' nre de  
Banco juxt' libtas, &c.

Third



## Third Prothonotaries Clerk.

Ad respondens A. B. un' Cllico<sup>4</sup> Willi  
Tempest Ar' unius Prothonotar' Cur'  
nrō de Banco juxta libtat, &c.

An Attachment against an Attorney for a  
Contempt.

Gulielmus (Ec.) Attach A. B. un' At-  
tozn' Cur' nre de Banco ita quod eum,  
heas coram Justit' nris apud Westm (eli  
die) ad respond' Nobis de & sup hijs que  
ei ex parte nra adinuic objicient' Et heas  
(Ec.)

This may serve against any other muta-  
tis mutandis.

Cerciorari p Attozn' de Cōi Banco.

**W**Illus tercius, (Ec.) Majori & Mi-  
norib' & Vic London' saltem prepi-  
mus Vobis quod omnes & singulas Cau-  
sas querel & demand' versus A. B. un'  
Attozn' de Cōi Banco nrō coram Vob vel  
aliquo Vrm leuat inchoat & penden'  
unacum diebus leuacionis earūdm hea-  
tis coram Justit' nris apud Westm die  
Lune prox' fuer' ut iidem Justit' nrō  
bis Causis illis facere valeant inde  
predicto A. B. plenar' Justicie comple-  
ment' juxta libertat & privileg p hūmōi  
Attozn' a tempore quo non extat memō-  
ria hactenus usitat & approbat Et heatis  
(Ec.)

To remove a Plea into the Common-  
Pleas.

**W** Illus tercius, (Ec.) Majori Aldz  
& Viz London' saltem volen' certis  
de Causis Cerciorari tm de quadam Bill  
Original coram Vobis seu aliquo Vrm  
levat sive affirmat versus T. R. nuper  
de (Ec.) ad lectam T. M. de placito debi  
super Demand Octo Libr' qm de quo  
dam Attach superinde fact de Octo Li-  
bris in Manibus & Custodi A. B. existen'  
Attach & defens Vobis mandamus quod  
Bill Original pdict & Attach pdice adeo  
plene & integre cum omnibus ea tangen'  
pout coram Vobis seu aliquo Vrm resi-  
det quibuscunq noibus partes in eisdem  
censeantur coram Justie nris apud Westm  
in Quinden' Pasch' mittae unacū hoc bz  
At iidem Justie nri ulterius inde fieri  
fat pout de Jure fore viderint Teste, &c.

Habeas corpus cum Causa ad fac  
& rec.


\* Day cer-  
tain.

**W** Illus tercius. Ec. Majori, (Ec.) sal-  
tem precipimus Vobis qd heatis co-  
ram Justie nris apud Westm —  
(the Return\*) Corpus C. D. in Prisona  
nra sub custodi vra detene ut dicite quo-  
cunque noie censeate in eadem unacum die  
& causa capcon & detencon ejusdem ad  
faciend & recipiend quod Curia nra de eo  
cons

Habeas Corpus.

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cons in hac parte Et habeas ibi hoc h<sup>2</sup>d  
Teste, &c.

Com. Pleas.  


Habeas Corpus to the Marshals Court  
returnable immediate.

Willus tercius, (&c.) Iudicibus Cui  
Palatii nostri Westm & eor<sup>4</sup> cuilibet sal-  
tem precipimus Vos qd corpus A. B. in  
Prison nra sub custod<sup>2</sup> bra ut dicit<sup>2</sup> detene  
quocunq<sup>2</sup> noie censeat<sup>2</sup> in eadem unacum  
die & causa capcon & detencon ejusdem  
habeatis coram Georgio Treby Mil Ca-  
pital Justie nro [ or coram J. P. Mil  
un Justie nro<sup>4</sup>, when 'tis returnable be-  
fore another Judge ] de Banco apud Ca-  
meram suam situat . . . . .  
immediate post post redexcon hujus h<sup>2</sup>is  
Ad faciend & recipiend quod idem Justie  
noster adtunc & ibm de eo cons in hac  
parte Et heatis ibi hoc h<sup>2</sup>d Teste, &c.

Allowance  
4 s. 8 d.  
and for  
the Se-  
cond Cause  
1 s. &c.

You leave the Habeas corpus at the  
Marshals Court Office in *Fleetstreet*, and after  
they have returned it, you carry it with the  
Defendant and Bail to the Judge coram quo,  
&c. or any other Judge. Note, any thing  
above 5 l. removes the Action; and if no  
such Action be entred there you must cause  
one above 5 l. to be entred against the De-  
fendant in that Court.

Com. Pleds.

Note, If the Defendant be minded to go to the Fleet, then there needs no Bail; but if the Defendant be not actually in Prison, then you must get the Officer to return a *Cepi*, or else to get *Spencer* the Officer to come over to take him into his Custody, and make Certificate, or else actually to carry the person to the Prison.

**Habeas corpus upon a *Cepi corpi* returned in Debt.**

Salutem Precipimus tibi qd habeas coram Justie nris apud Westm (tali re- torum) corpus M. B. quem p precepte nrm cepisti & penes te detines prout tuiped Justie nris apud Westm (tali die) ult pterie mandu ad respondens C. D. de placito qd reddat ei 20 l. quas ei debet & injuste detinet ut dic Et heas ibi hoc hpd Telle, &c.

**Sit in Transgr.**

Ad respondens C. D. de placito quare vi & armis ctm ipsius C. apud E. fregit Et alia enormia ei intulit ad grave dampnum ipsius C. Et contra pacem nram ut dic Et habeas, &c. And so in other Actions according to the Form of the *Capias*.

Note, That upon Bail taken of a Person in Custody, the Prisoner is not to be discharged till the Baill be assented to, or over-

## Habeas Corpus.

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overruled in open Court. The Defendant being Bailed upon a **Habeas corpus**, the Plaintiff must bring his new Original within two Terms following (that Term, wherein the Bail was taken to be accounted for one, unless it was taken the last day of the Term;) and declare against him, as the nature of his Cause or Action shall require, observing the same method of getting Judgment and Execution, by way of **Hil Dicit Non sum Infor'd**, Confession or Tryal by **Juri prius**, as in other Cases.

See more after in **Scire fac** of Proceeding against a Bail.

Note, If a man be taken upon a *King's bench* Process, and remove himself to the *Fleet*, then if you would charge him with a Declaration in this Court, you must make out a **Habeas corpus** (as before) directed **Guardiano Prisonis nre de le Flete sive ejus locum tenend ibm** returnable in Court at a day certain, **ad respondend** the Plaintiff **de plito**

Et ulterius **ad fac & rec** quod **Cui nra** de eo **cons** in hac parte, and then you must charge him in Court with your Declaration.

Its said, if he was committed in *Hillary* Term or Vacation, you must bring your **Habeas corpus**, and declare within six days in the next *Trinity*. If in *Easter* Term or Vacation, then within six days in *Michaelmas* next. If in *Trinity* Term or Vacation, then before the end of *Michaelmas* following. If in *Michaelmas* Term or Vacation, then within six days in next *Easter* Term,



om. Pleas.

otherwise the Prisoner may be discharged by **Superseas** of course out of the Protho-  
notaries Office, where the Commitment was  
entred; so as the Prisoner first enter his  
appearance by Attorney with the Prothono-  
tary, (if to a privileged Person) or with  
the Philizer (if upon other Process) and  
bring a Certificate from the Warden, that  
no proceedings have been had upon **Ha-  
beas corpus** in that time: but the Plaintiff  
may declare upon the appearance the next  
Term, after 'tis entred or **Superseas**  
granted.

**Proceedendo in the Marshal Court.**

If before  
another  
Judge, say  
coram  
A. B. Mil'  
un' Justic'  
nro' de  
Banco, &c.

**W**Illus tercius, &c. Iudicibus Cur  
Palatii nri Westm<sup>i</sup> Teozum cuili-  
bet salutem cum nuper Vobis per h<sup>u</sup>d no-  
strum precepimus quod haberetis coram  
Georgio Treby Mil<sup>i</sup> Capital<sup>i</sup> Justic<sup>i</sup> nro  
de Banco apud Cameram suam situae in  
le Middle Temple immediate post recep-  
con<sup>d</sup> h<sup>u</sup>is p<sup>o</sup>dic<sup>i</sup> corpus A. B. in Prisons  
nra sub custod<sup>i</sup> v<sup>o</sup>ra detene<sup>n</sup> ut dicit<sup>r</sup> una-  
cu<sup>m</sup> die & causa capcon<sup>d</sup> & detencon<sup>d</sup> ejusdem  
quocunq<sup>ue</sup> no<sup>m</sup>ie idem A. censeate ad faci-  
end<sup>u</sup> & recipiend<sup>u</sup> quod p<sup>o</sup>esae Capital<sup>i</sup> Ju-  
stic<sup>i</sup> noster de eo cens<sup>u</sup> in hac parte tamen  
certis de Causis Justiciariis nris de  
Banco p<sup>o</sup>dict<sup>i</sup> apud Westm<sup>i</sup> in hac parte  
specialit<sup>r</sup> move<sup>n</sup> vobis & cuilibet v<sup>o</sup>ro  
Precepimus qd in quibuscunq<sup>ue</sup> Plitis &  
Querelis versus ipm<sup>u</sup> A. B. in Cur<sup>i</sup> nra  
coram vob<sup>is</sup> mot<sup>i</sup> sibe penden<sup>t</sup> scdm<sup>u</sup> Legem

Procedendo.

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& cons<sup>u</sup> Regni nr<sup>i</sup> Angl ac Cur<sup>i</sup> p<sup>r</sup>dict<sup>i</sup> p<sup>r</sup>o-  
cedatis cum effectu aliquo h<sup>u</sup>ebi vobis nu-  
per in Contrarium directe non obstante,  
Teste G. C. &c.

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Aliter.

As above usq<sup>ue</sup>—de eo cons<sup>u</sup> in hac  
parte Quia tamen Justic<sup>i</sup> nr<sup>i</sup>s de Ban-  
co p<sup>r</sup>dict<sup>i</sup> apud Westm<sup>onasterium</sup> satis constat quod  
p<sup>r</sup>dict<sup>i</sup> A. Brebe p<sup>r</sup>dict<sup>i</sup> de habend<sup>o</sup> corpus  
suum unacum die capon<sup>em</sup> & detention<sup>em</sup> ejus-  
dem A. coram p<sup>r</sup>efat<sup>e</sup> Justic<sup>i</sup> nr<sup>o</sup> ad diem  
& locum p<sup>r</sup>dict<sup>i</sup> juxta tenorem ejusdem h<sup>u</sup>is  
debo modo non est p<sup>r</sup>ossecut<sup>us</sup> I<sup>tem</sup> vobis p<sup>r</sup>e-  
cipimus q<sup>uod</sup> in o<sup>m</sup>nibus & singulis Plitis seu  
querelis in Cur<sup>i</sup> nr<sup>a</sup> coram vob<sup>is</sup> seu aliquo  
v<sup>ost</sup>ro mor<sup>e</sup> sibe penden<sup>te</sup> scdm<sup>ut</sup> Legem & cons<sup>u</sup>  
Regni nr<sup>i</sup> Angl ac Cur<sup>i</sup> p<sup>r</sup>dict<sup>i</sup> put<sup>et</sup> justum  
fueri: p<sup>r</sup>cedatis & quilibet vestrum p<sup>r</sup>cedat  
cum effectu p<sup>r</sup>dicto h<sup>u</sup>o nr<sup>o</sup> de habend<sup>o</sup> co-  
pus vobis inde nuper directe in aliquo non  
obstand<sup>o</sup> Teste, &c.

Aliter sur Habeas corpus retornd  
in Cur<sup>i</sup>.

Willmus tercius, &c. cum nup<sup>er</sup> vobis p<sup>r</sup>  
h<sup>u</sup>o nr<sup>o</sup> p<sup>r</sup>cepimus q<sup>uod</sup> haberetis coram  
Justic<sup>i</sup> nr<sup>i</sup>s apud Westm<sup>onasterium</sup> die m<sup>er</sup>cureij p<sup>r</sup>,  
post quinden<sup>am</sup> Sed Martini corpus A. B.  
in Prisona nr<sup>a</sup> sub custod<sup>e</sup> v<sup>ost</sup>ra detent<sup>ur</sup> ut  
dicebatur quocunque no<sup>mine</sup> censleret<sup>ur</sup> unacum  
die & causa cap<sup>t</sup>ionis & detentionis ejus-  
dem A. ad faciend<sup>um</sup> & recipiend<sup>um</sup> quod iidem  
Justic<sup>i</sup>

Com. Pleas.

**W** Justic nrd de eo cons in hac parte certis  
tamen de causis Justic nris apud Westm  
in hac parte moben vobis pcepimus Qu  
in oibus & singulis Plitis & Querelis in  
Cur nra coram vobis sicut pstat A. B.  
moe sive dependend pcedat cum effectu pdict  
hnd de habend corpus pdict A. vobis nup  
in contrarium inde directe in aliquo non  
obstand, &c.

Sed fac General, post annum & diem.

**G**uilielmus, &c. Dic L. saltem Cum.  
A. B. nuper in Cur nra scilicet Ter-  
mino Pasche Anno regni nrd septima  
coram G. C. Mil & Sociis suis tunc Ju-  
stic nris de Banco apud Westm per cons  
ejusdem Cur recuperasset versa G. D. nup  
de G. in Com tuo Gen als dice G. D. de G.  
in Com L. Gen tnd quoddam debitum  
80 l. qnd 40 s. qui eidem A. in ead Cur  
nra adjudicat fuit p dampnis suis que  
fuit octone detento nis debi ill unde con-  
vice est put p Recoꝝ & Process. inde in  
ead Cur nra coram Justic nris apud  
Westm residen liquet manifeste Execuco  
tamen Judicij pdice adhuc restat faciend  
put ex insinuatione pdict A. B. accepimus  
Et quia volumus ea que in ead Cur nra  
rite acta sunt debite execucon demandari  
tibi pcepimus qd per pbos & legles hoies  
de ballia tua Scire fac pstat G. D. qd sit  
coram Justic nris apud Westm in Octab  
Sed Trinit offens si quid p se heat vel  
dicere sciat quare pdict A. B. execucon  
versa

versus eum de debito & dampnis p'dice here Com, Pleas  
 non debeat iuxta formam recuperacionis p'dice  
 si sibi viderit expediri Et heas ibi nota  
 eorū p quos ei Scire feceris & hoc h'et  
 Certe G. Treby apud Westm 12 die Ju-  
 nij Anno regni n'ri octavo.

Cooke.

Note, One Scd fac' and Nichil Return'd  
 is sufficient in this Court to ground a  
 Judgment and Execution, if it be  
 against the party himself.

After the Sheriff has Return'd the Scd  
 fac', then you must prepare an Entry of the  
 Judgment after this manner :

L. N. **P**receptum fuit Dicitur Cum A. B.  
 nuper in Curia d'ni Regis nunc  
 scilicet Termino Pasche Anno regni d'ni  
 domini Regis septimo coram Georgio  
 Treby Mil & Sociis suis tunc Justic  
 ipsius d'ni Regis de Banco hic scilicet apud  
 Westm per cons ejusdem Curie recuperasset  
 versus C. D. nuper de C. in Com Lincoln  
 Gen als dict C. D. de C. in Com L. Gen  
 quoddam debum 80 l. qm 40 s. qui  
 eidem R. in ead Curia adjudicatus fuit pro  
 dampnis suis que hinc occasione detentio  
 debi illi unde convictus est put p Record &  
 Process. inde in ead Curia dice d'ni Regis  
 nunc hic scilicet apud Westm p'dice residen  
 liquet manifeste Executio tamen Judicii  
 p'dice adhuc restat faciend put ex insinua-  
 tione p'dice A. acceperat Rex Et quia, &c.  
 per



Com. Pleas.

**W** per p[ro]bos, &c. Scire fac' p[ro]p[ri]e C. quod  
esset hic ad hunc diem scilicet in Octab[is] Sed  
T[er]m[us] ostens[us] si quid, &c. quare p[ro]dic[us] A.  
executio[n]em vers[us] eum de debito & dampn[um] p[ro]  
here non deberet juxta formam recupera-  
tionis p[ro]dic[us] si, &c. Et modo hic ad hunc  
diem ven[it] p[ro]dic[us] A. p[er] C. P. Attorn[um] suum &  
obtulit se quarto die vers[us] p[ro]p[ri]e C. de p[ro]  
plito Et ip[s]e solemnit[er] exace non ven[it] Et  
Dic modo mand[um] q[uo]d nichil habet, &c. nec  
est inven[us], &c. --- Ideo cons[ider] est q[uo]d p[ro]dic[us] A.  
heat Executio[n]em s[olus] p[ro]p[ri]e C. de debito &  
dampn[um] p[ro]dic[us] p[er] defale, &c.

See before for a Fieri Fac', after Nichil  
Return'd on Scire Fac', and Judg-  
ment.

*Of Scire fac' against Bail.*

**H**ere it is to be observed, That when the  
Plaintiff hath obtain'd Judgment a-  
gainst the Defendant, where Special Bail  
hath been given, the Plaintiff may either  
take the Defendant upon Execution, or pro-  
secute his Bail.

The manner of Prosecuting the Bail is  
thus :

First, The Judgment being Entred, he  
must sue forth a *Capias ad satisfaciendum*  
against the Defendant, directed to the Sher-  
riff of the same County where the Action  
was first laid, and upon the Return thereof  
get



get the same Return'd *Non est Inventus*; then he must procure a Writ of *Scire facias* against the Bail, (the Form whereof hereafter followeth) to shew Cause why the Plaintiff should not have Execution against them, according to the Recovery or Judgment so had against the Defendant. Upon which Writ, if the Sheriff do Return *Scire feci*, you need not make out any second Writ; but if he Return *Nihil habent*; then you must make out a second Writ of *Scire facias*, and get it Return'd; if it be Return'd also *Nichil*, (yet two *Nichils* amount to a *Scire feci*) then you must give Rules upon them in the Prothonotary's Office, and File them with the *Custos Brevium*. And thereupon, if the Bail shew not Cause to the contrary, then Judgment by default may be Entred against them in the said Prothonotaries Office, for the Sum in which they became Bail: And the Plaintiff may thereupon take out Execution against them, either by *Fieri facias* or *Elegit*; but not by *Capias ad satisfaciendum*, because it is against the Tenor of the Bail.

Com. Pleas.

Hob. 196.

The *Scire fac'* must issue to the Sheriff of the County where the Caption was.

*Aliter.*

There is also another way of Proceeding against the Bail, and that is by Original at the Common Law, for the Sum for which they became Bail; and thereupon arrest their Bodies either upon the *Capias*, *Alias* and *Plures*, or Sue them to Exigent thereupon, and declare upon the said Recognizance, using

**Com. Pleas** using all Proceedings thereupon as in an  
**W** Action of *Debt*: And the Action ought to  
 be laid in the County of *Middlesex*, where  
 the Records do lie, and whence the *Venire*  
 for that respect must arise.

And Note, That if the Bail cannot be  
 arrested in *Middlesex* upon the *Capias*, &c.  
 you may Return *Non est inventus*, &c. and  
 thereupon Sue forth a Writ of *Testatum*, and  
 thereby arrest them in another County  
 where they may be found, observing the  
 like Proceedings as in an Action of  
*Debt*.

**Scd fac'** upon a Recognizance against  
 Bail.

**G**uilielmus tercius (Ec.) Die Quidam  
 saltem Cum A. B. nuper de (Ec.)  
 nuper in Cur nra scit primo die Febr  
 Anno regni nri septimo assumpsit super  
 se p E. f. in 50 l. qd idem E. compareret  
 in ead Cur nra coram Justic nris apud  
 Westm [here put the Return] tunc pr'  
 sequen & sic de die in diem ad quemlibet  
 diem placiti super demand 50 l. per quen-  
 dam G. H. versus pfa E. in ead Cur nra  
 plectne quousq plicum illud terminetur &  
 Judicium inde reddie fuit Et si conti-  
 gerit pdice E. in pdice plito convinci &  
 Judiciu p pfae G.---versus eundem E.  
 reddi tunc pdice E. pfae G. de debo &  
 dampnis p eodem G. in pdia plito sllus  
 pfae E. recuperans vel adjudicans satis-  
 faceret

faceret vel qđ ipđ idem E. seipum p̄sone  
 de le flect occasione illa redderet quam  
 quidm̄ sum 50 l. p̄dict A. recogn̄ de ter-  
 ris & catallis suis fieri Et ad opus &  
 usum p̄dict G. levari si contingeret p̄ E.  
 in aliquo p̄missorum defale facere & inde  
 legitimo modo convinci put per Recor̄  
 & Process. inde in eadem Cur̄ nr̄a residen-  
 liquet manifeste Ne licet p̄dice E. postea  
 scilicet Terminor. (cc.) Anno regni nr̄i (cc.) in  
 eadē Cur̄ nr̄a recuperabit versus p̄fac  
 G. p̄dice 50 l. de debito p̄dice Acciam  
 39 s. 4 d. p̄ dampnis suis occasionē debi-  
 illius put p̄ Recor̄ & Process. inde in ea-  
 dm̄ Cur̄ nr̄a coram Iustit̄ nr̄is apud  
 Westm̄ p̄dice filie residen- liquet mani-  
 feste p̄dict tamen E. corpus suum in Eccl̄  
 Iudicij p̄dice in eadem Cur̄ nr̄a coram  
 Iustit̄ nr̄is p̄dict non reddidit nec idem E.  
 p̄fat G. de deb & dampnis p̄dice satisfac-  
 put ex insinuatione ipsius G. accepimus  
 Et quia volumus ea que in p̄dict Cur̄  
 nr̄a coram Iustit̄ nr̄is p̄dice rite acc̄ &  
 recognit̄ sunt debet Execuconi demandari  
 tibi p̄cipimus qđ p̄ p̄bos & legles hōies de  
 Ballia sua Scire fac p̄fat A. qđ sit coram  
 Iustit̄ nr̄is ap̄ Westm̄ a die Sed Michis  
 in tres Septiman̄ ostens̄ si quid p̄ se heat  
 vel dicere sciat quare p̄dict 50 l. de debito  
 & 39 s. 4 d. de dampnis p̄dict p̄ ipum̄ in  
 forma p̄dice recognit̄ de terris & catallis  
 suis fieri & p̄fac G. reddi non debeant  
 juxta formam recognitonis p̄dice si sibi  
 viderit expediri Et heas ibi nomina  
 eorū p̄ quos ei Sed fac Et hoc h̄d Teste, cc.

Sed

**Scd Fac** upon a Judgment against an  
Executor after a Year and a Day.

**N.** Gulielmus tercius, &c. Vitz Verb  
saltem cum **N. B.** nuper in Cur' nra scilicet  
Termino Pasche Anno Regni nri septimo  
coram **G. C.** Mil & Sociis suis Iustit  
nris de Banco apud Westm (et.) recu-  
perasset **Slus E. f.** nuper de (et.) Execu-  
tozem Testamenti **S. T.** nuper pdice (et.)  
tam quodam debitum 20 l. de bonis &  
catallis que fuer' pdice **S.** tempore mortis  
sue in manibus pdice **E.** existent levand  
quam 40 l. & 10 s. qui eidem **N.** in eadem  
Cur nra adjudicat fuer' p dampnis suis  
occasione detencion debi illius de eisdem bo-  
nis & catallis levand si pdice **E.** tanta  
bona & catalla que fuer' pdice **S.** tempore  
mortis sue in manibus suis administrand  
habuisset & si non habuisset tunc dampna  
pdice de bonis & catallis ipsius **E.** propz  
levand unde convic' est put p Record [ &c.  
as last before in the other manifeste ] Exe-  
cuto tamen Iudicii pdice adhuc restat fa-  
ciend put ex insinuatione ipsius **N.** accepti-  
mus Et quia volumus [ &c. as before. ] qd  
p ppos (et.) ostens (et.) quare pdice **N.**  
execucionem **Slus** cum de debito & dampnis  
pdice here non debeat si sibi viderit expe-  
diri Et heas ibi nomina (et.) Et hoc  
h2o Teste, &c.

Scire

**Scire fac** against Terre-Tenants, upon a Judgment recovered against the Heir in Debt.

**ff. Gulielmus, &c. Dic** Derb saltem Cum J. R. Nre in Cur nra scilt Termino Pasche Anno Regni nre septimo coram G. C. Mil & Sociis suis (Ec. as before) recuperasset versus A. W. nuper de A. in Com Pote Gen fratrem & heredem S. W. Armig nuper dice (Ec.) tam quoddam debm 500 l. qm 6 l. que eidem (Ec.) unde convice est Executo tamen Judicii pdice quoad debm pdict adhuc restat faciend ac pdice A. mortuus est put ex insinuatione ipsius J. accepimus Et quia volumus (Ec. as before) Scire fac tenend terrar & tenementor de quibus pdice S. obiit seistus in feodo simplici & que descend pfac A. per descensum hereditat ut fratri & heredi pdice S. ut sint coram (Ec. as before) in Crastino sed Crtd ostens siquid (Ec. as before) quare pdice J. executon plus eos de debito & dampnis pdice de eris & tenement illis levand here non debeat juxta formam Recuperatonis pdice si sibi viderit expedire \* Et heas ibi nomina, &c. Et hoc h2d Teste, &c.

Et unde Dic nre London mand Justic \* If it be a  
nra apud Westm in Octabis sed Michis Testatum  
ult pterit qd non sunt aliqui tenentes nec Sci. fac.  
aliquis tenens aliquorum terrar & tene- then add.  
mentor de quibus pdict S. obiit seist in Et unde,  
Et hoc



Com. Pleas.

**W** feodo simplici & que descend p̄fat A. per  
 descensum Hereditat ut fratri & heredi  
 ejusdem S. in Ballia sua quibus vel cui  
 Scire fac potuerunt cum testat sit in  
 eadem Cui nra qđ diversi sunt tenentes  
 terrar & tenementor de quibus p̄dice S.  
 obiit leisit in feodo simplici & que descend  
 p̄fat A. p descensum Hereditat ut fratri  
 & heredi ejusdem S. in Com tuo quibus  
 Scire fac possis Et heas ibi nomina. &c.  
 Et hoc b̄d Teste, &c.

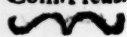
Superfedeas p Attoꝝ de Cod Banco  
 implitat in Banco Regis.

**W** Illus, &c. Justic nrs ad Placita  
 coram nobis tenens assignat ostens  
 est Prober parte A. B. un Attoꝝ Cui  
 nre de Banco Qd cum ipd comunis At-  
 toꝝ in Banco p̄dice existat & diversa  
 negotia qm plur ligoꝝ nroꝝ de eodem  
 Banco psequen & defenden ut eoꝝ At-  
 toꝝ psequitur & defendit Idemq A. &  
 omnes al Attoꝝ in Banco p̄dice dum sic  
 aliqua negotia in Banco p̄dice psequun-  
 tur aut defendunt sub p̄tatione nra esse  
 debeant & essent juxta libertat & p̄vileg  
 Cui nre de Banco p̄dice a tempore cujus  
 memoria hominū non existit usitat & ap-  
 pbat Quia tamen R. C. Nil libtat &  
 p̄vileg Cui nre de Banco p̄dice igno-  
 scens quandam Willam de quadam Chilgr  
 per p̄fat A. eidem R. ut asseritur in Com  
 nro W. ppetrat coram vobis impetravit &

Et p̄secue fuit in nr̄ Cur de Banco con- Com. Plea.  
tempe Et ipius A. Et Uigeorū nr̄orū quorū  
Attoz̄ idem A. existit dampnū non modi-  
cum Et gravamen ut accepimus Et ideo  
vobis mandamus qd' de quibuscunq; Plit-  
tis Et Querelis in Cur' nr̄a coram vobis  
versus p̄lac A. moe seu movendū (Plitis de  
libero testō Felon' Et appell' duntaxat ex-  
cepe) superse'd om̄io partibus in Plitis Et  
Querel' p̄dice ex parte nr̄a dicendū qd' Plita  
Et Querelas suas in Cur' nr̄a coram Ju-  
stic nr̄s de Banco p̄dice p̄sequantur si sibi  
viderint expediri Teste, Et.

Supersedeas ( quia improvide ) sur  
Habeas corpus.

Willus, Et. Die S. saltem Cum nuper  
tibi p̄breve nr̄m p̄cepimus qd' heres A. B.  
in Pr̄sona nr̄a sub custod' tua existendū  
unacum die Et causa cap̄tonis Et deten̄tonis  
ejusdē A. coram Justic nr̄s apud Westm̄  
in Octab scd Trin' p̄r' futur' ad faciendū Et  
recipiendū qd' Cur' nr̄a in ea parte cons̄  
Quia tamen Justic nr̄s p̄dice apud  
Westm̄ p̄dice satis constat qd' p̄s breve de  
Habeas corpus improvide emanabit Itā  
tibi p̄cipimus qd' p̄lac A. or̄tione p̄missa  
molestandū seu de h̄y p̄dice coram Justic  
nr̄s apud Westm̄ retoznandū aut de h̄y illō  
aliqua' exequendū superse'd' omnino Teste  
Et.



## Declarations.

Quia h<sup>2</sup>e erroneice emanabit.

Cum nuper tibi p h<sup>2</sup>e nrm pcepimus qd capes (&c.) unde condict est Quia tamen Justie nris pdict satis constat quod h<sup>2</sup>e nrm de Cap e Cur' nra pdice minus rite & erroneice emanabit It<sup>2</sup> tibi pcepimus qd' de plac A. capiend' seu in aliquo molestand' or<sup>2</sup>one pmiss. supersed' omnino Et si ipm A. ea or<sup>2</sup>one & non alia cepis tunc ipm A. ad largum ire permittas Teste, &c.

## Declarations in the Common Pleas.]

Cooke.

Pass septimo Willt tertij Regis.

Declara-  
tion upon  
a Bond.

Soms R. **A** B. nuper de C. in Com p<sup>2</sup> A. Gen als dict A. B. de C. in Com S. Gen sum fuit ad respondend' E. f. Gen de p<sup>2</sup>ito [if at the Suit of the Sheriff, or late Sheriff, say, Ad respond' E. f. Armig' Dic (or nuper Dic Com p<sup>2</sup>, &c.) de p<sup>2</sup>ito qd' reddat ei 100 l. quas ei debet & injuste detinet, &c. Et unde idem E. p G. H. Attor<sup>2</sup> suum dic qd' cum p<sup>2</sup> A. primo die Maij anno Regni D<sup>2</sup>ni Regis nunc septimo apud C. p quoddam scriptu suu obligatorium concessisset se teneri eidem E. [if for the Sheriff, say, teneri eid' E. p nomen E. f. Armig' Dic Com S. pdice

pdice J in pdice centum libr' solvend' ei-  
dem E. cum inde requisit' fuisset pdice  
tamen A. licet sepius requisit' pdice centū  
libr' eidem E. nondum reddidit set ill' ei  
hucusq; reddere contradixit ac adhuc con-  
tradixit unde dic' qd' deteriorat' est & dam-  
num het ad valenc' 20 l. Et inde pduc se-  
ctam, &c. Et pfer' hic in Cur' scriptum  
pdem qd' debm pdice in forma pdict testa-  
tur cujus dac est die & anno supdictis, &c.

Note, The *Common Pleas*, when they deli-  
ver Narr upon Bonds, usually add the  
LD Lō thus :

Li' Lo'

Et pdice A. p J. Attorn' suū vend' & de-  
fend' vim & injur' Quidō, &c. Et per audie  
scripti Obi pd' Et ei legitur, &c. per etiam  
auditum Condicion' ejusdem scripti Et ei  
legitur in hec verba ff. The Condition,  
(&c. to the end) Quibus lectis & auditis  
idem A. per licenc' inde interloquendi hic  
usq; in Crō scd Trin' Et het, &c. Idem  
dies dac est pfac' E. hic, &c.

Neither is the Defendant obliged to plead  
till he hear the Condition of the Bond,  
in manner as above.

The Imparlance or LD Lō to other De-  
clarations, is only thus :

Et pd' A. p J. Attorn' suū vend' & defend'  
vim & injur' quando, &c. Et per licenc' inde  
interloquend' hic usq; in \* Crō scd Trin' Et

\* First day  
of the  
Term.

Et habet, &c. Idem dies dicitur esse p̄fatus &  
hic, &c.

And sometimes they only write thus :

**Id** Lo' usq; **Triid** **Triid** ( or the first day  
of the next Term ) p̄ **Chambers** ( naming  
the Defendant's Attorney. )

Note, if it be an Impar lance for an At-  
torney or Priviledg'd Person, it must  
be to a Day certain.

Note, a Special Impar lance is worded  
thus :

L' Lo'  
Special.

Et p̄dict A. p̄ C. D. Attornd suum ven  
Et salvis sibi omnibus advantagijs tam  
ad B̄d qm̄ ad Narratōnem p̄dict p̄ licenc  
inde interloquendi (&c.)

Upon a Penal Bill.

Som̄s ff. **A** B. nuper de (&c.) als dicit  
A. B. de C. in Com̄ S.  
Gen̄sus ium̄ fuit ad respondendū C. f.  
Gen̄ de p̄lito qd̄ reddat ei vigine libras  
quas ei debet & injuste detinet, &c. Et  
unde idem C per G. H. Attornd suum dicit  
qd̄ cum p̄dict A. primo die Maij Anno  
Domini Millesimo sexcentesimo nonage-  
simo primo apud C. p̄ quandam Billam  
suam Obligatoriam quam idem C. sigillo  
p̄dict A. signat hic in Cur̄ p̄fert cujus dat̄  
est eisdem die & anno obligasset se Hered̄  
Excu-



Executores & Administratores suos in  
 pdict 20 l. legalis Monete Angl p vera  
 solucione 10 l. similis Monete Angl pdice  
 E. Executor Administrator vel Assign  
 suis apud vel sup scdm diem Septembz  
 tunc ppor' sequen' dat Bille pdice Et idem  
 E. in sco' dicit qd' pdice A. non solvit  
 eidem E. pdice 10 l. super pdict secundum  
 diem Septembz quas ei apud vel super  
 eundm diem solvisse debuit scdm formam  
 & effectum Bille pdice per quod actio ac-  
 crevit eidem E. ad exigens & habend' de pd  
 A. pdice vigine libras pdict tamen A.  
 licet sepius requisie pdice vigine Libr'  
 eidem E. nondum reddidit set ill, &c. (as  
 before.

Debt.

Upon an Emisset, or for Goods bought.

N. A. B. nup de E. in Com pdice Gen  
 sum fuit ad respondens E. p. in plito qd'  
 reddat ei 20 l. quas ei debet & injuste de-  
 tinet, &c. Et unde ide E. p G. H. Artoz  
 suum dicit qd' cum pdict A. (tali die &  
 anno) apud D. emisset de eodem E. unam  
 Equam p pdice 20 l. solvend' eidem E. cum  
 inde requisie fuisset ps tamen A. licet se-  
 pius requisie pdice 20 l. eidem E. nondum  
 reddidit set ill ei hucusq; reddere contra-  
 dixit & adhuc contradic unde dicit qd' de-  
 teriorare est & dampnū her ad valenc' 20 l.  
 Et inde pduc' scctam, &c.

Upon a Mutuatus, or for Money borrowed.

( Which is commonly used upon a Warrant of Attorney, to confess a Judgment without a Bond. )

*Cooke.*

*Donis ff. N. B. nuper de R. in Com p'd Gen sum fuit ad respondend E. p. de p'sito qd' reddat ei 100 l. quas ei debet & injuste detinet, &c. Et unde idem E. per G. H. Attoznd suum die qd cum p'dice N. ( such a Day and Year ) apud D. mutuae fuisset de eodem E. p'dice 100 l. solvend' eidem E. cum inde requisit fuisset p'dice tamen N. licet sepius requisit p'dice 100 l. eidem E. nondum reddidit set ill ei hucusq; reddere contradixit & adhuc contradicit unde dicit qd' deteriorat est & dampnum het ad valenc 20 l. Et inde producat lectam, &c.*

*Non infoznd per N. B. [ naming the Attorney for the Defendant by Authority of the Warrant. ]*

Then you sign Judgment with the Prothonotary ; Fee 2 s. Then enter up the Judgment by *Non infoznd*, &c. Vide antea.

Debt

## For Money due upon Account.

A. B. nuper de ( &c. ) sum fuit ad respondens C. F. de placito qd reddat ei 50 l. quas ei debet & injuste detinet, &c. Et unde idem C. per G. H. Attornd suum die qd cum pdice A. (eal die & anno) apud C. computasset cum pfar C. de diversis Denar summis eidem C. per ptae A. ante tempus illud debie & solubie Et super Compo' illo pdice A. invent fuit in Arreraq erga eundem C. in 50 l. per quod Acco' accrebit eidem C. ad exigens & habens de pfae A. pdice 50 l. pd tamen A. licet sepius requisie pd 50 l. eidem C. nondum reddidit set ill ei hucusq reddere contradixit & adhuc contradic unde dicit qd deteriozae est & dampnum het ad valens 20 l. Et inde pduc lectam, &c.

Insimul  
computat  
set.

## In Case sur Assumpsit.

Upon a Mutuatus, for Money lent and delivered.

A. B. nuper ( &c. ) attach fuit ad respondens C. D. de plito transgi super casum Et unde idem C. per C. F. Attornd suum queritur quare cum pdice A. primo die Januarij anno Regni Dom Willi tertij nunc Regis Angl, &c. decimo apud G. in consideratione qd idem C. ad spial instanc

Com. Pleas.



& requisicon p̄d A. ex mutuo dedisset & delibasset p̄d A. quinq; Libi legis Monete Angl super se assumpsit & eidem C. adtunc & ibm fidelie promisit qd' ip̄d idem A. p̄d Quinq; Libi eidem C. cum inde postea requisie fuisset bene & fidelie solvere & contentare vellet p̄d tamen A. promissa & assumpton suas p̄d mie curans set machinans & fraudulene intendens eundem C. in hac parte callide & subdole decipe & defraudare p̄d Quinq; Libi seu aliquem Denar inde eidem C. licet ad hoc faciend p̄d A. postea scilt (such a day and year) & sepius postea apud G. p̄dice p eund' C. requisie fuisset non solvit set ill ei solvere oio recusabit Et adhuc recusat ad dampnum ipsius C. 10 l. Et inde pduc sect, &c.

**Indebitae Assumpsit, upon a Mutuatus,**

For Money had and received by the Defendant.

Ut supra usq; — Quare cum p̄dice A. primo die Maij anno Regni dice Dom Regis nunc septimo apud G. indebitae fuisset eidem C. in Decem Libris in pecuniis numeratis per p̄fat A. de eodem C. ante tempus illud mutuae habie & recepte [Or thus, indebitae fuisset eidem quer in 10 l. legalis Monete Angl p consimili denar' summa per p̄dice Def. de p̄fae quer' ante tempus ill mutuae hie & recepte Et sic inde indebitae existend p̄dice A.

A. in cons inde super se assumpsit & eidem Com.Pleas.  
 C. p̄dice p̄mo die Maij anno septimo su-  
 pradiato apud G. p̄dice fidelie promissit qđ  
 ip̄ p̄dice A. p̄ 101 eidem C. cum inde po-  
 stea requisie fuisset bene & fidelie solbere &  
 contentare vellet, p̄d tamen A. p̄missionē  
 & assumptōē suas p̄dice mīd curans, &c.  
 (as next before.)

### Indebitae Assumpsit.

For Goods and Merchandizes.

Ut supra usq; — Indebitae fuisset ei-  
 dem C. in 20 l. legalis Monete Angl p̄o  
 diversis bonis Mercimon & Merchondizis  
 p̄ p̄fac A. de eodem C ante tempus il-  
 lud empe hic & recepe. [Or thus, per p̄d C.  
 eidem A. ante tempus illud vendit & de-  
 liberat] Et sic indebitae existēd p̄dice A.  
 postea scit (such a day and year) apud G.  
 p̄dice in consideratione inde super se as-  
 sumpsit, &c. Or thus, Et sic inde indebi-  
 tae existēd idem Def. in cons inde postea  
 scilicet eod . . . . die . . . . . anno  
 . . . . . supradicto apud . . . . .  
 super se assumpsit, &c. (as before.)

### Insimul Computasset in Case.

Attach fuit, &c. ut antea usque —  
 Quare cum p̄dice A. p̄mo die Maij an-  
 no Dom 1699. apud G. Insimul compu-  
 tasset cum p̄fac C. de diversis Denar sum-  
 mis



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mis eidem C. p p̄lac M. ante tempus illud debir & insolue Et super Compō illo idem M. invene fuit in arrerag erga eundem C. in 10 l. leglis Honete Angl Et sic in arrerag invene exissed p̄dice M. in consideratione inde postea scilicet eodem die & anno apud G. p̄dice super se assumpsit & eidem C. adtunc & idm fidelie p̄promisit qd' ip̄d idem M. p̄dice 10 l. eidem C. cum inde postea requisie fuisset bene & fidelit solbere & contentare vellet p̄dice tamen M. p̄missionē & assumptōē suā p̄mid curans, (as before.)

See for the laying of several Promises in one Narr. in the Declarations for the *King's Bench*, which is the same in the *Common Pleas*, mutae mutand, but more particularly in the Second Part of *Instructor Clericalis*.

For an Executrix—say—ad respond M. B. vid Executric Testi G. H. de plito (Ec.) Et p̄fert hic in Cur tam scriptum (Ec.) quam literas testamentarias (Ec.)

See more in the Second Part.

A Declaration in Ejectment.

Trin 12 Willi 3. Regis.

Cooke.

Scitis it. **A.** B. nuper de C. in Comd  
respondens E. f. de placito quare Vi &  
armis unum Messuagium, &c. (naming  
them) cum pertinet in G. que H. J. Sed  
eidem E. dimisit ad terminum qui nondum  
petite intrabit & ipsum a firma sua p'dice  
ejecit Et alia enormia ei intulit ad grave  
dampnum ipsius E. Et contra Pacem Dñi  
Regis nunc Et unde idem E. p. R. G.  
Attorū suum queritur Quod cum p'dice H.  
J. primo die Martij anno Regni Domini Re-  
gis nunc undecimo apud G. dimisisset ei-  
dem E. Centa p'dice cum pertinet habens &  
occupans Centa p'dice cum pertinet eidem E.  
& assignatis suis a primo die Martij tunc ule-  
petite usque finem & terminum trium annorum  
extunc pr' sequens & plenarie complens &  
finiens virtute cujus dimissionis idem E.  
in Centa p'dice cum pertinet intrabit &  
fuit inde possessionarie ipsos E. sic inde pos-  
sessionarie existens p'dicti A. postea scilicet eodem  
primo die Martij anno undecimo supradicto  
Vi & armis, &c. in Centa p'dice cum pertinet  
que p'fac H. J. eidem E. in forma p'dice  
dimisit ad terminum qui nondum p'terit  
intrabit & ipsum E. a firma sua p'dice e-  
jecit & alia enormia, &c. ad grave dam-  
pnum,

Note, if the  
Land or  
Premises  
be in feve-  
ral Parishes  
the Venue  
must be but  
in one.

*K's Bench.* *pnium, &c. Et contra Pacem, &c. Unde dicitur*  
*qd' deteriorat est & dampnum heri ad va-*  
*lenciam 201. Et inde pduc lectam, &c.*

Note, This Ejectment being usually to try a Title, the Plaintiff makes some Friend Defendant; and then Notice is given to the Tenant in Possession to defend his Title, after the manner of the *King's Bench*, viz. on the bottom or back of the Narr'.

Mr. J. S.

**I** *Am sued for the Tenements and Lands in this Declaration mentioned, which I understand are in your Possession, so that if you intend to defend your Title thereto, it will be necessary that you retain an Attorney to appear and plead for you the next Hillary Term; otherwise Judgment will be obtained against me by Default, and you will be turned out of Possession.*

*Your Friend,*

A. B.

If there be occasion to make an Affidavit of the Service of the Declaration to ground a Rule for Judgment by Default; it may be made after the same manner as in the *King's Bench*, at the bottom of the Narr', or otherwise on a Stamp'd Paper by it self thus ——— viz.

*In*

In Com Banco.

A. B. Quer } In Ejectone fir-  
E } me de terris &  
C. D. Def. } tentis in D.

E. F. maketh Oath, That upon the . . . .  
Day of . . . . he this Deponent served  
G. H. with a true Copy of the Declaration  
and Subscription hereunto annexed, and at  
the same time read the Subscription unto  
him, and desired him to make his Defence  
accordingly.

And after a motion, you call on the Se-  
condary to draw up the Rule against the  
casual Ejector, for which he now takes  
6 s. viz. Affidavit 2 s. Regul<sup>r</sup> 2 s. Debit<sup>r</sup>  
Rs<sup>r</sup> 2 s.

Then you carry this Rule to the Protho-  
notary to sign, for which he takes 2 s.

Note, The Secondary upon the Motion,  
keeps your Affidavit and Narr<sup>r</sup>, so that  
you ought to have another filled up by  
you, or to fill up one by that in his  
Custody.

If the Tenant appear, and is willing to  
enter into a Rule by Consent, it is to be  
drawn up after this manner, viz.

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Cooke.

Hile 11 Willi Regis.

Denn *vers.*  
Fenn, de  
uno mess.  
uno horreo  
uno stabulo  
(&c.) cum  
pertin' in  
S. in Com.  
L. ex di-  
missione  
R. G.

Note, This  
Rule need  
not be  
stampd.

Lincoln R. **O**rdinae est per Cur ex al-  
sensu J. S. Attoꝝ Queri  
T. H. Attoꝝ p. A. B. qui clam titulum  
Tenitoꝝ in questione qd idem A. B. ad-  
mittat Def. Quoque idem A. indilate  
comparebit p. Attoꝝ suū p. dice qui recipiet  
narrationem ac p. litabit ad inde General  
Exie hoc Termino Et ad triationem super  
inde hendi idem A. comparebit in p. p. p.  
person sua aut per ejus Consilium vel  
Attoꝝ T. cogn. dimissionem intracoꝝ T. actu-  
al expulsionem de tunc tenitoꝝ in Par. Queri  
Spez. quanc. exist' in possessione dicti Def.  
vel ejus tenendi aut aliquarum personarū  
claman' per vel subter ejus titulo vel qd'  
in defecte inde intrete Judicium versus  
Def. R. fenn casualem Ejectoꝝem set par-  
tate p. secutio versus eum quousque de-  
fale in aliquo p. missioꝝum fiat Et ex con-  
sili assensu ulterius Ordinae est qd si rōne  
humoi defale querend. debend. non p. oss. su-  
per triatione dice A. null. capiet inde ad-  
vantagium set solvet eidem Querend. custag.  
p. Prothonotari p. inde taxand'. Et ulte-  
rius Ordinae est Qd dimissioꝝ Querend. sit  
onerabit cum solutioꝝe custag. p. fac. A.  
per Cur. hic aliquo modo allocand. vel ad-  
judicand.

Per Cur.  
J. S. p. Queri.  
R. S. p. Def.

The



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The Attornies having written their Names *Com. Pleas.*  
... to the bottom of the Rule, then  
you enter an Appearance upon it, with  
the Philazer of the County, for which he  
takes 1 s. and if two Defendants 1 s. 4 d.  
then you carry it to the Prothonotary to  
pay for **Id Io'**, who takes 2 s. then to the  
Secondary who takes 1 s. 6 d. besides Dury,  
and keeps your Rule by consent, and fills you  
up two others after this manner:

*Cooke.*

**Hill 6 Willi Regis.**

**Denn verlus Fenn ff. Ordinae est per  
Cur' ex assensu, &c. (as before.)**

**p Cur'.**

**R. Cooke.**

One of which afterwards you affix to  
**Cop Eric** . . . . . and deliver  
it to the Defendant's Attorney, who usually  
has it *gratis*, because he does not put you to  
the trouble of a Motion, and you may also  
then give him notice of Tryal, if you think  
fit.

**Declaration by an Attorney of the Com-  
mon Pleas.**

**London ff. A. B. nuper de ( &c. ) at-  
tach fuit p bzd Dni Regis de privileg e  
Cur hic emanad ad respond J. S. Gen  
Z un**

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und Attorn Cur' Dom' Regis de Cod Banco hic juxta libertat' & privileg' de p'd Banco a tempore quo non extat memoria usitat' & approbat' in eadem de plito t'lsgr' super Calo, &c. Et unde idem J. in ppr' person' sua queritur quare cum, (&c.) Et inde pduc' sece, &c.

Note, It's said Pledges must be added to a Bill by an Attorney or Clerk.

Pleg' de Pros } Johand Doe.  
Ricardus Roe.

See afterwards for a Narr' against an Attorney.

Declaration brought by one of the Prothonotary's Clerks.

Cooke.

N. A. B. nuper de C. in Com p'd Neom attach fuit p B'd Dom' Regis nunc de Privileg' e Cur' hic emanad ad respond' E. f. Gen' und Cl'icoz Johis Cooke Ar Capital Prothon Dom' Regis de Banco [juxta libertat' & privileg' ejusdem Cur' p huiusmodi Cl'icis & al' Ministris de eod' Banco a tempore quo non existit memoria usitat' & approbat' in eadem] de plito t'lsgr' sup Calum Et unde idem E. f. in ppr' person' sua queriti quare, cum, &c.

Note, the Prothonotary struck these words out.

Pleg' de pros } Johes Doe.  
Ricardus Roe.

Decla-

Declaration in Trespass.

Som̃s ff. A. B. nuper de C. in Com̃  
p̃dict̃ Peom̃ attach fuit ad respondend̃ E.  
f. de placito quare Vi & armis cū ipsi-  
us E. apud G. fregit ac blada & herbam  
sua ad valenc̃ 10 l. ibidem nuper crescend̃  
cum quibusdam averiis depast' fuit con-  
culcavit & consumpsit Et al̃ enozmia ei in-  
tulit ad grave dampnū ipsius E. & contra  
pacem Dñi Regis nunc, &c. Et unde idem  
E. per R. G. Attozū suū queritur qđ  
p̃dice A. p̃mo die Juñ Anno Regni Dñi  
Regis nunc 11<sup>mo</sup> Vi & armis, &c. blada  
videt̃ triticū siliginem hordeum pilas fa-  
bas avenas & herbam sua ad valenc̃  
&c. ibidem nuper crescend̃ cum quibusdam  
averiis videt̃ equis bobus vaccis porcis  
& bidentibus depast' fuit conculcavit &  
consumpsit & alia enozmia, &c. ad grave  
dampnū, &c. Et contra pacem, &c. unde  
dic̃ qđ deteriorat̃ est & dampnū her̃ ad va-  
lenc̃ 5 l. Et inde pduc̃ lectam, &c.

Trespass and Assault

As before, Als̃ — de plito quare Vi  
& armis in ip̃m E. apud G. insult̃ fecit  
& ipsum verberabit vulnabit & maletra-  
ctabit ita qđ de vita ejus desperabat̃ Et  
alia enozmia ei intulit ad grave dampnū  
ipsius E. & contra pacem Dñi Regis  
nunc, &c. Et unde idem E. per J. S. At-  
tozū suū queritur Qđ p̃dice A. p̃mo

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die Dec Anno Regni Dñi Regis nuncun-  
decimo Vi & armis videlt gladiis baculis  
& cultellis in ipm C. apud G. insult fecit  
& ipsum verberabit vulnabit & maletra-  
ctabit ita qđ de vita ejus desperabatur  
Et alia enozmia, &c. Ad grave dampn, &c.  
& contra pacem, &c. unde die qđ deteriozat  
est & dampn het ad valentiam 50 l. Et  
inde pduc sectam, &c.

Trover.

ff. A. B. nuper de C. in Com pdice  
Neoman attach fuit ad respondens D. Epe  
plito transgr' super Casu &c. Et unde idem  
D. per J. S. Attoz suum queritur quare  
cum pđ D. primo die Maij Anno Regni  
Dñi Regis nunc decimo apud London  
possessoriae fuisset de bonis & catallis  
sequend viz. de [ here insert the Goods you  
bring the Action for ] ad valenc centum  
libr ut de Bonis & Catallis suis pro-  
priis — Et sic inde possessoriae existend  
idem D. bona & catalla pdice extra manus  
& possession suas casualiter perdidit &  
amisit que quidem bona & catalla postea  
scilicet pđ primo die Maij anno decimo  
supradicto apud L. pđ ad manus & posses-  
sion pđ A. p inventon debener pđ tamen  
A. sciens bona & catalla pđ fore bona &  
catalla ipsius D. propr' ad ipm D. de jure  
spectare & pertinere, machinans tamen &  
fraudulens intendens ipsum D. de bonis  
& catallis illi callide & subdole decipere &  
defraudare bona & catalla pđ licet sepius  
requisie

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requisie fuisset eidem D. non deliberabit  
set bona & catall p̄p̄ postea scilicet decimo  
die Junij Anno supradicto apud L. p̄dice  
in usum suum p̄p̄r convertit & disposuit  
ad dampnum ipsius D. 150 l. Et inde p̄-  
duc sextam, &c.

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Narr upon a Bill Filed against an Attorney  
in Debr.

Cooke.

Memorandum qđ 30 die Octobris isto  
eodem Terminū veni hic in Cur' A. B. per  
C. D. Attozū suum & exhibuit Justic  
Dñi Regis hic quandam Bi lam suam  
versus E. f. Gen' un' Attozū Cur' Dñi  
Regis de Banco p̄sen' hic in Cur' in pro-  
pria persona sua cujus quidem Bille tenor  
sequitur in hec verba \* Justic Dom Re-  
gis de Banco scilicet A. B. p C. D. At-  
tozū suum queritur de E. f. uno Attozū  
Cur' Dom Regis de Banco als dict' (&c.)  
p̄sen' hic in Cur' in propria persona sua  
de eo qđ (&c. ut in al.) Et dampnum her ad  
valenc' 26 l. Et inde pet' remedium, &c.

Note, It's  
said the  
Memoran-  
dum ought  
to be the  
first day of  
the Term.

\* The Bill  
filed to be  
ingrossed  
on Parch-  
ment.

Note, That upon a Bill filed the Defen-  
dant is first called in Court, and then  
a Rule given to plead, or to be fore-  
judged. The Bill begins thus, at \* Ju-  
stic Dñi Regis, &c. and you must  
write over it the Term, and file it in the  
Office.

Z 3

Issues



## Non Assumpsit infra sex annos.

**E**t p̄dice C. p̄ C. Attoꝝn' suum ven' & defendi vim & injuri quando, &c. Et dic qđ p̄dice N. acton' suam p̄d inde versus eum here non debet quia dic qđ ipse non assumpsit sup se ad aliquod tempus infra sex annos ante diem impetrať bꝛevis original ipsius N. modo & forma pꝛout p̄d N. superius versus eum queritur Et hoc parat est verificare unde pꝛe Judic si p̄dice N. acton' suam p̄dice inde versus eū here debeat, &c.

Repl.

Et p̄dice N. dicit qđ ipse per aliqua pꝛeallegat ab actione sua p̄dice hend' pꝛecludi non debet quia dic qđ p̄dice C. infra sex annos ante diem impetraťon bꝛis original ipsius N. scilicet pꝛedict . . . . die . . . . anno Regni dicti Dñi Regis nunc nono supꝛadicto apud S. p̄dice assumpsit super se modo & forma pꝛout ip̄d idem N. superius versus eū queritur Et hoc pꝛe qđ inquiretur per patriam & p̄dice C. similiter Ideo pꝛecept est vic qđ Venire fac hic in Octab Pur bte Marie duodecim, &c. per quos, &c. & qui nec, &c. ad recogn, &c. quia tam, &c.

That

That he paid the Money according to his Promise.

Quando (tc.) acton aon (tc.) quia die qd post promissionem & assumptionem suas pdice in forma pdice face & ante diem impetrat hris original pdice A. scilicet die . . . . anno Regni dice Dni Regis nunc decimo supradicto ipd idem C. apud D. pd bene & fidelie solvit prefat A. pd 5 l. secundum pmissionem & assumptionem suas pd Et hoc (tc.) unde (tc.)

Et pdice (tc.) precludi non debet quia Repl. die qd pd C. non solvit eidem A. pdice 5 l. modo & forma prout pdice C. superius plitando allegavit Et hoc per qd inquiretur per patriam Et pdice C. similiter Ideo (tc. ut in al.)

Defendant pleads Non-age at the time of the Promise.

Quando (tc.) & die qd ipd tempore promissionem & assumptionem ill fact fuit infra etae viginti & un' anno4 Et hoc (tc.) unde (tc.)

Precludi non, Quia die qd pdice C. tem Repl. promissionem & assumptionem ill fact fuit plene etae viginti & un' anno4 put pd C. A. superius allegavit Et hoc per (tc.)

If to a Bond, you say, tempore consecutionis Scripe Obligatorij pd; And to a Bill, tempore consecutionis Bill ill fuit infra etae (tc.)

**Non Assumpsit** to the first, second and third Promises and Payment to the rest.

Quando, &c. Et quoad primam secundam & tertiam promissionem in Pare p̄d superius mēc die qđ ipse non assumpsit super se modo & forma put p̄d C. superius versus eum inde queritur Et de hoc pon se super priam & p̄d C. inde similie Et quoad p̄dice ultimam promissionem in eadem Pare superius similie mēc (acton non) quia die qđ ipse p̄d C. post promissā & assumptōm ill in forma p̄dice face (&c.) As before he paid the Money according to the Promise, &c.

Repl.

Et p̄dice C. die qđ ipse per aliqua preallegat ab actone sua p̄d quoad p̄d ultimam promissionem in Pare ill superius mēc hend precludi non debet quia die qđ p̄dice C. non solvit eidem A. p̄dice 30s. modo & forma prout p̄dice C. superius p̄litando allegabit Et hoc pee qđ inquiratur per patriam & p̄dice C. filie Ideo quoad triand tam erit ist' quam p̄dice al erie in partes p̄dice superius junce precept est hic qđ ven fac, (&c. ut in al.)

**Non**

Non Inform to one Promise, and Non Assumpsit to the other.

Et p̄dice C. p (Ec.) quando (Ec.) Et quoad primam p̄missionem p̄d' idem Actor die qd' ipse non est inform p eundem C. magrū suum (Ec. as in other Non inform usq; ) indefens ob quod cons est qd idem A. dampna sua occasionē non persequamur p̄m p̄missionē p̄d' versus p̄fac C. recuperare debeat, Ec. Et quoad scdm p̄missionē p̄dice die qd p̄dice A. actōem suam p̄dice inde versus p̄s C. here non debet quia die qd' p̄s C. ipse non assumpsit super se modo & forma put p̄d' A. superius & us ed queritur Et de hoc pon se super priam & p̄dice A. inde filie & quia conveniens est & necesse qd' unica fiat taxatio dapnorum p̄dice occasionē p̄mis Ideo cessat h̄c de inquit de dampnis octōne p̄mis quousq; erit in partes p̄dice superius junce terminetur, Ec. Et quoad triand' erit ill p̄cepte est hic qd' Venire fac hic, Ec. (as in others.)

Unica tax-  
ac'o dam-  
porum.

Plene Administrabit.

The same as in the King's Bench, only instead of die exhibitō Bill, you say, nec h̄uit die impetratō h̄ris, Ec.

A. — (Acton' non) quia die qd' ip̄e plene administrabit oīa bona & catalla que fuer p̄d' H. tempore mortis sue & qd' ip̄e non

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**W.** p'dice nec unquam postea fuit ulla bona seu catalla que fuer' p'dice **D.** tempore mortis sue in manibus suis administrand'. Unde ipse **C.** [ p'dice sepat' denar' suum seu aliquem inde denar' or ] debum p'dice eidem **W.** solvere potuit Et hoc (Ec.) Unde (Ec.)

That Administration was never granted to the Defendant.

**Acton'** non, quia dic' qd' administratio bonorum & catallorum que fuer' p'dice **J.** tempore mortis sue eidem **Def.** nunquam commissa fuit Et hoc (Ec.) unde (Ec.) ut in al.

Repl.

**Precludi** non, quia dic' qd' administratio bonorum & catallorum que fuer' p'd' **J.** tempore mortis sue p'dice Scriptum p'fat' **Def.** commiss' fuit p'out ipse superius versus eum narrabit Et hoc p'et qd' inquirat per patriam & p'dice **Defend'** similiter **Jo** p'cepte est vic' (Ec.) as in others.

Comperuit ad diem pleaded to a Sheriff's Bond.

This being an issuable Plea, 'tis said there is no need of a Serjeants Hand to it.

**Quando, Ec.** Et p'et auditum Scripti p'd' Et ei legitur, Ec. p'et etiam auditum **Conditio** ejusdem Scripti Et ei legitur in hec verba the Condition (Ec.) Quibus testis & auditis idem **C.** dic' qd' p'dice **A.** (acton' non) quia dicit qd' ipse p'd' **C.** comperuit coram p'fat' **Iustic** dict' **Domi** **Regis** hic



hic lecti apud Westm in pdice Octab Sed  
Hillarij ad respond pstat A. B. de pdict plito  
scdm formam & effectm condicon pd' cujus  
quidem C. comparentia in Cur Regis  
hic adtunc recoz dabatur prout p Recoꝝd'  
inde in eadem Cur hic residem liquet ma-  
nifeste Et hoc (Ec.) unde (Ec.)

Precludi non, quia die qd' non habetur  
aliquod tale Recoꝝd' comparente pd' C. co-  
ram pstat Justie dice Dom Regis hic  
scilicet apud Westm in pdict Octab Sed  
Hillarij in Cur Regis hic remanem qual  
ipd' superius allegabit Et hoc parat est  
verificare unde per Judic & debm suum  
unacum dampnis suis occone detentom  
debi illi sibi adjudicari, Ec.

Et pdice C. ut prius die qd' hert tle  
Recoꝝdum comparente pdict C. coram pdict  
Justie dice Dom Regis remanem qual  
iple superius allegabit Et per qd' Recoꝝd'  
illud per Justie hic videatur & inspiciatur  
Et quia Recoꝝd' illud parat hic in Cur  
modo non habet dictum est pstat C. qd'  
Recoꝝd' ill per se scrutat illud heat hic  
[\* a die Pasche in tres Septianas] idem  
dies datus est partibus pdice hic, Ec.

Rejoinder.

\* It ought  
to be re-  
turnable in  
a Return,  
unless by  
Priviledge.

Non damnificatus to a Counter-Bond.

Quando, Ec. Et per auditum Scripti  
pd' Et ei legitur, Ec. per etiam auditum  
condicon ejusdem Scripti Et ei legitur  
in hec verba (the Condition of, &c.) Qui-  
bus lectis & auditis idem C. die qd' pred'  
A. accion suam pd' inde versus eum here  
non

**Com. Pleas.** non debet quia die pd' pdice A. post con-  
 fecton Scripti pd' & ante diem impetrac  
 hys Original pd' A. non damnificae fuit  
 de p aut concernend pd' Scripe Oblig' in  
 condicon pd' superius specificat in quo pd'  
 A. simulcum eodem C. conjunctim & divi-  
 sim tenebantur pfae S. C. Et hoc (Ec.) un-  
 de (Ec.)

Repl.

(Quer pprecludi non,) quia die qd' pdice  
 C. super pdice decimum diem Maij in con-  
 ditione pdice superius specificat non sol-  
 vit pfae S. C. pdice 50 l. in condicon ill  
 similiter specificat' quas eidem S. super  
 eundem diem solvisse debuisset per quod  
 pdice Scripe Obl p pdice A. B. & C. D.  
 pfae S. C. face & sigillae p solucione pd'  
 50 l. forisface fuit super quo idem A. p  
 evitacione sece in lege & periculozum & in-  
 cumbzanc que in & super eundem A. &  
 statum suum ratione non solucionis pdice  
 50 l. sedm formam & effectum condicon'  
 pdict incidisse potuissent eadsem 50 l. po-  
 stea scilicet 20 die Junij anno Regni dice  
 Dom Regis nunc septimo apud L. pdice  
 pfae S. solvit in plenam satisfacionem  
 pdice Scripe Obl 100 l. in pdict obl supe-  
 rius specificat Et sic idem A. dicit quod  
 ipse damnificae fuit rone pdice Scripti  
 Obligatorij 100 l. contra formam & ef-  
 fectum condicon' pdice superius spec Et  
 hoc parat est verificare und per Iudic &  
 debm suum pdice unacum dampnis suis  
 occasione detencionis debiti ill sibi adju-  
 dicari, &c.

Et

Et p̄d. dicit qd' p̄dict A. p̄dice 20<sup>i</sup> die Junij and septimo sup̄dicto non solvit p̄fat S. T. p̄dice 50 l. modo & forma p̄out p̄d A. superius allegabit Et de hoc p̄on se super patriam Et p̄dict A. similie Ideo p̄cept est Dic, &c. ut in al.

Non detinet.

Quando, &c. Et dic qd' ip̄d non detinet p̄fat A. B. p̄dice 30 l. nec aliquem denar inde in forma qua idem A. superius versum narrabit Et de hoc p̄on se super Priam, (&c.)

Nil debet nec detinet.

Et p̄d A. S. p̄ A. B. Attor̄n suum vend & defend' vim & injur quando, &c. Et dicit qd' ip̄d non debet p̄fat A. A. p̄dice 10 l. nec aliquem denar inde in forma qua idem A. A. superius versus eum narrabit nec detinet p̄fat A. A. p̄dict equum in forma qua idem A. superius versus eum narrabit Et de hoc p̄on se super Priam (&c.)

Non dimisit to Debt for Rent.

Quando (&c.) actōn non (&c.) quia dicit qd' idem A. non dimisit eidem D. tementa p̄dict eum p̄tin put p̄dice A. superius versus eum narrabit Et de hoc p̄on se super Priam (&c.)

Conditions

Conditions perform'd.

See before in the *King's Bench*.

Tender of the Money to a Bond.

Quibus lectis & auditis idem A: dic' qd' p'dict B. (ackon non) quia dic' qd' ip'e parat fuit ad p'stat f'ctum Scd Mich'is Archi ac adtunc se obrulit ad solvend' p'stat B. 20 l. quas ei ad' p'dict f'ctum solvisse debuit secundum formam & effectum Conditon' ill' videt' apud A. p'dict qd'que nec p'dice B. nec aliquis al' p' eodem B. adtunc & ibidem parat' fuer' ad recipiend' de eodem A. p'dice 20 l. Et ulterius idem A. dic' qd' ip'e semper a p'dice f'cto Scd Mich'is Archi hucusque parat' fuit & adhuc existit ad solvend' p'stat B. p'dice 20 l. & qd' ill' idem A. hic in Cur' p'ofert p'stat B. parat' ad solvend' Et hoc (Ec.) Unde (Ec.)

This Plea above is to be pleaded before Imparlance.

Repl. Qd' non obtulit, &c. Et Def. (u' prius) dic' qd' obrulit and issue.

Solvi

Solbit ad diem to a Penal Bill.

Acton non, quia dic' qd' ipd solbit p'fat  
N. super p'dict 20 diem Maij p'dict 20 l.  
quas ei sup eodem die solvisse debuit se-  
cundū formam & effcū Wille p'dice videt  
apud G. p'dice Et hoc (Ec.) Unde (Ec.)

Repl. Qd non solbit put p'dice Def. su-  
perius allegabit Et hoc per qd' inquirat-  
tur, &c.

Per Minas.

See in the King's Bench.

Per Dures.

See in the King's Bench.

Ne unques Executor.

Vide ante in the King's Bench.

Ne unques Administ.

Vide ante in the King's Bench.

Riens p descent.

The same as in the King's Bench, only in-  
stead of die exhibicionis Wille, you say, die  
impetracionis h'rebis, &c.

Defendant



Defendant wages his Law, and perfects it  
at a Day.

*Nil debet per legem.*

Quando, &c. Et dicit qd' ipse non debet  
pfat A. pdice 5 l. nec aliquem denar' inde  
in forma qua pdict A. superius versus  
eum narrabit Et hoc parat est defendere  
contra ipsum & sectam suam put Cui Dni  
R<sup>s</sup> hic cons<sup>s</sup> I<sup>o</sup> cons<sup>s</sup> est qd' p<sup>o</sup> C. vad' ei  
inde legem suam de duob' manu Pleg' de  
lege Johes Denn Ricus Penn Et ven  
cum lege sua hic in Octab Sed Hillarij  
Et dem est pfat Actor<sup>m</sup> p<sup>o</sup> C. qd' tunc heat  
in Cui eundem C. Magr<sup>m</sup> suum in ppr'  
persona sua ad perficiend' inde legem sua  
p<sup>o</sup> si, &c. Ad quem diem hic ven tam p<sup>o</sup> A.  
p Actor<sup>m</sup> suum p<sup>o</sup> qm pdice C. in ppr'  
persona sua Et sup hoc idem C. perfecit  
legem suam pdict de duodecima manu  
pout eam superius vad' Ideo cons<sup>s</sup> est  
qd' pdict A. nichil capiat per hvebe suum  
pdice let sit in mia inde p falso clamore  
suo.

Mia.

The Defendant is to bring his Compurga-  
tors, but they may be less than 11, and they  
are sworn *de Credulitate*. 2 Ventr. Rep. 171.

*Nil debet per legem & perfec legem  
instante.*

Et hoc parat est defendere (&c.) pout  
Cui Dom Regis hic cons<sup>s</sup> Et per se ad  
legem

legem suam instanc faciendū admitti & <sup>Com. Pleas.</sup> admittitur Et super hoc p̄d C. instanc hic in Cur perfee inde legem suam p̄dict de duodecima manu put eam superius vadī Ideo cons̄ est qđ p̄dice A. nichil cap per breve suum p̄dice set sit in miā inde p̄zo Mi'a. falso clamore suo, &c.

2 Ventr. Rep. 171. When the Defendant hath his Hand upon the Book, before he is sworn, the Plaintiff is to be called, and he may be Non-suited.

Ley gager & Essoin & Failer de Ley.

Ad quem diem hic veni p̄dice A. B. per A. S. Attozū suum Et p̄dice C. fecit le Essoin de malo veniens versus p̄fac A. B. de p̄dice plito Et huit inde diem p̄ Essoin suum hic usq; ad hunc diem scit (&c. name the day) Et modo ad hunc diem veni p̄ A. p̄ Attozū suum p̄d Et op̄ le quarto die h. sus p̄fat C. de plito qđ esset hic ad hunc diem ad perficiendū legem suam p̄dice put eam superius vadī Et ipse solempniter exact non veni sed defale fecit Ideo cons̄ est qđ p̄dice A. B. recuperet vers̄ p̄fac C. D. debum suum p̄dict & dampna sua occasione detentōn debi illi ad 15s. eidem A. B. ex assensu suo p̄ Cur hic adjudicat Et p̄dice C. in miā, &c. Mi'a.

Note, An Essoyn is a craving of a longer time, and lies in all Real Actions, as also for the Defendant in *Ley gager*.

Commitment to the *Fleet* after Judgment.

Et p̄dice Def. in mia, &c. postea scilicet  
26 die Nov' anno Regni dice Dom̄ Regis  
nunc septimo ven̄ hic in Cur̄ p̄dice (Def.)  
in p̄p̄' p̄son̄ sua Et super hoc idem Def.  
committitur Prison̄ dice Dom̄ Regis de  
le Fleet octone p̄miss. ibi moratur quousq;  
&c.

See after.

## Son assault demesne.

See before in the *King's Bench*.

Entry of a *Non proſ* after Appearance by  
the Defendant for want of a Declaration.

ff. A. B. qui tulit breve Dom̄ Regis  
nunc filius C. D. nuper de (&c.) de plito  
Cūsgt̄ super Calum non est p̄secut̄ breve  
suum p̄dict̄ Ideo ip̄ & p̄leḡ sui de p̄s̄ sint  
in mia Quer' noia p̄leḡ, &c. Et qd̄ p̄d' C.  
eat inde sine die cons̄ est etiam qd̄ p̄d' Def.  
recuperet versus p̄lat̄ Quer' dampna sua  
octone p̄miss. ad 40 s. eidem Def. p̄ discre-  
tionem Justic̄ hic ad requisitōm suam p̄-  
miss̄ & custaḡ suis in ea parte sustene jux-  
ta formam Statut̄, &c. p̄ Cur̄ hic adjudi-  
cat̄, &c.

Upon this drawn up on Paper, Costs are  
signed by the Prothonotary, as in other Judg-  
ments.

See before in the *King's Bench*.

Al' Commitment al' Fleet in exoneraçon  
Manucaptor', &c.

Postea sciēt (tali die) tunc pr' sequend  
vidē hic in Cur' p'dice W. in ppr' psonā sua  
Et tam pzo indempnitatē sua ppr' quam  
Manucaptoꝝ suoꝝ per qd ipd per Cur'  
hic committatur Prison Dom Regis de  
Fleet ocçione Judicij p'dice ibm moratur'  
quousq; &c. Et qd' indē Manucapt' sui  
de Manucaptoꝝ sua p'dice exōnentur &c.  
super quo idē W. plens hic in Cur' ad  
petitōnem p'd' Quer' committitur Pri  
sone p'dice in Execuc' pzo deho & dampnis  
p'dict' in forma p'd' recuperatē ibm moratur'  
quousq; &c. Et Manucaptor' p'dice videt'  
N. B. & C. D. de manucaptoꝝ & recog  
nitōn' suis p'dict' in hac parte facc' per Cur'  
hic plene exōnantur, &c.

Note, That the Matters of Demurrers are  
much the same here, as in the *King's  
Bench*; See after Tit. *Demurrer*.

Demurrers

And as to *Postea's* upon Records after  
Verdict, you have your Record return'd  
by the Clerk of the *Postea's*, and from  
thence carry it to the Prothonotary to  
tax Costs, who gives the *Postea* to the  
Clerk of the Judgments; and he takes  
care of continuing the same on the  
Roll, &c.

*Postea's*.

See in the *Compleat Solicitor*, pag. 254. con  
cerning reversing Judgments by Error.

Errors.

Com. Pleas.

**W** If the Errors be allowed, the Judgment is made void, and the Defendant may have Restitution.

If the Errors be not allowed, then is the former Judgment affirmed.

But observe, That notwithstanding the Reversal of a Judgment, the Plaintiff's Cause of Action is not thereby taken away ; but he may bring a new Action against the Defendant for the same Cause, if he will.

*Of suing to the Outlawry.*

**I**F you intend to sue any Person to the Outlawry who (is not easily to be taken, and hath not sufficient Estate in the County, whereby to be summoned, &c. ) as you may in Trespass, Trespass and Assault, Account, Case, Covenant, Debt, Detinue and Replevin, you must make out a *Præcipe* in Debt, or a *Pone* in Case, Trespass, Assault, Battery, &c. as is before directed.

And this must be carried to the Curfitor of the County where you lay your Action, for an Original.

And Note, That the Outlawry (unless laid in *London*, as most are ) will scarce be perfected under three Terms ; because there must be 15 days or more between the *Teste* and Return of each Writ of *Capias*, *Alias* and *Plures* ; and the Return of the first Writ is the *Teste* of the second, and so in order : also there must be five County Days betwixt the *Teste* and Return of the *Exigent*.

But



## Outlawryes.

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But in *London* you may sue to the Outlawry three times in the year, because their *Hu-  
stings* are oftner than their County-days; and this is the Reason that most lay their Actions in *London*, in suing to the Outlawry.

Also in a Vacation you may take the benefit of the precedent Term for your Original, and so you may the Term following, provided you bespeak it of the Curfitor within seven Days after the Term begun, otherwise you will lose that Advantage.

Having gotten your Original, you may return it of Course thus:

Pleg' de pā } *Johes Doe.*  
                              } *Ric'us Roe.*

\* Note, If in Case or Trespass you say, p } *Infranciar A. ni-*  
                                      } *chil bet in Ballia*  
quod Attach po- } *nrā p quod \* lund*  
test. } *potest.*

And Note, You may } *Respons*  
have Four Names } *C. A. Mst.*  
in one Writ. } *E*  
                              } *W. H. Mst.*  
                              } *Dic.*

Then you carry your Original thus returned, to the Philazer of the County, who thereupon will make you out *Capias*, *Alias* and *Plures* all together, if your Original will bear it, which you must pay him for, and then get them sealed.

After this you may return your *Capias*, *Alias* and *Plures* of Course severally, after this manner:

A a 3

\* Naming

## Outlawries.

\* Naming the  
Defendants  
in the Writ.

Infranoīae \* N. non est  
inuent in Ballia nra.  
Respons.

C. N. Mil.

W. H. Mil.  
Dic.

Having thus return'd all your Writs, you may either carry the *Capias* and *Alias* to the Philazer, or keep them by you : But you must next make out a Warrant of Attorney for the *Plures* upon a bit of Parchment after this manner, for the Plaintiff.

Mich. II Gul 3. Rē.

London ff. C. D. pon loco suo C. D. At-  
torney suum & sus N. B. nuper  
de (et.) Gen de plito Cūlge  
(or Debt, as the Case is.)

Power.

Next, You must carry this Warrant of Attorney to the Clerk of the Warrants to file it, and then will he stamp your *Plures*.

After you have thus done, you must carry your *Plures* to the Exigenter of the County where the Action is laid, who will thereupon make you out Exigent and Proclamation, which you must get sealed, and ( if in *London*) then you must carry the Exigent to one of the Compters, and leave it there to be perfected ; and your Proclamation you must

## Outlawries.

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must send down to the Sheriff of the County, of which the Defendant is named, to be executed. Com. Pleas

At the Return of the Proclamation, you must file it with the *Custos Brevium*.

And having got the Return of your Exigent, you may carry it to the Clerk of the Outlawries, and he will make you out a *Capias Utlagat'* upon it either General or Special, the one is against the Body only, the other is against the Body, Goods and Lands; upon which you proceed, &c.

Note, That if it happen that there be not five County-days between the *Teste* and Return of the Exigent, you must be forced to procure another Writ called an *Allocatur* from the Exigenter, to bring in the five County-days; and so it must be in London, if it wants a Hustling.

But Note, That you may take out your Process in order, and endeavour to take the Defendant upon any of them.

The two chief Terms to commence Suits to the Outlawry, especially for the Country, are *Easter* and *Michaelmas*.

If you begin in *Easter* Term, you may procure your *Cap'* and *Alias Cap'* returnable in *Trinity* Term; and in *Trinity* Term sue forth your *Plures*, Exigent and Proclamation.

If in *Michaelmas* Term, you may sue forth the Original, *Capias* and *Alias Capias*, returnable the same Term; and a *Plures*

A a 4

Cap'

*Com. Pleds. Cap<sup>o</sup>* returnable in *Hillary* then next following ; and in the same Term procure your Exigent and Proclamation.

But in *London* you may begin in *Trinity* Term, and the Party may be Outlawed in *Hillary* following ; the Hustings being kept every Fortnight, and the County-court only every Month.

You ought also to be instructed in the way of superseding the Exigent, and reverting an Outlawry, &c. for which I shall refer you to the *Compleat Solicitor*, and Office of an *Attorney*.

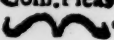
*Several ways of passing a Fine.*

**I**F your Fine be to be taken in the Country, you must first draw up Instructions for the Curator to make a *Dedimus Potestatem*, and give him the Commissioners at the bottom, which may be after this manner :

Lincoln II.      Per A. B. Sen & C. Ur<sup>o</sup> ejus  
qd iuste, &c. ten C. D. Con<sup>o</sup>, &c.  
de uno Mesuagio uno Curtilagio & uno Gardino cum  
pertin<sup>o</sup> in F. Et nisi, &c.

|                           |   |            |   |     |
|---------------------------|---|------------|---|-----|
| De p <sup>a</sup> directe | { | I. S. Mil. | { | Sen |
|                           |   | A. B.      |   |     |
|                           |   | H. G.      |   |     |
|                           |   | D. N. &    |   |     |
|                           |   | E. W.      |   |     |

Note,

Note, You may find many Presidents for Com. Pleas  
*Præcipes* and *Concords* of *Fines*, in   
*Brown's Fines and Recoveries.*

You must carry this to the Cursitor of the County, and bespeak a *Dedimus*; and you may at the same time bespeak a Writ of *Covenant*; but that is usually let alone till the *Dedimus* is returned.

You must send down your *Dedimus* to your Client, who must also write over the *Præcipe* upon Parchment, and under that the Concord, as the nature of the thing requires, with a Caption: All which is sufficiently treated of in the said Book of *Fines*. *Vide postea.*

When the *Dedimus* is return'd to *Westminster*, then it is usual to bespeak the *Covenant* of the Cursitor (by leaving the *Dedimus* and Caption with him) which *Covenant* you must carry to the Alienation Office to be compounded, when you have it from that Office.

Then next you must make a Warrant of Attorney for it, upon a piece of Parchment, after this manner:

Mich 11 Gul 3. Rē.

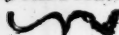
Lincoln st. C. D. pō loco suo C. P. ad pā  
 h2d de Con' plus N. B. Gen'  
 & C. Ar' ejus de triā & tēntis  
 in f. &c.

Power.

Ther



Com.Pleas.



Then you must carry the VVarrant of Attorney and Covenant to the Clerk of the VVarrants, who will file your VVarrant and sign your VVrit of Covenant for 4 d.

Next you must carry your Writ of Covenant, to be return'd at Mr. Mill's Office (and if it be in *London* or *Middlesex*, you must carry him a Note of the Parcels and the Buttels, Signs and Tenants Name) who will return it.

Then you must annex your *Dedimus* and Caption to it, and carry it to the *Custos Bre-vium*, to Indorse the Proclamations upon it.

From thence you carry them, as annexed, to the King's Silver-Office in the *Temple*, to be entred; (but before you go there, you must get the Cursitor to mark your VVrit of Covenant, how much for the King's Fine, or else they will not enter it.) When it is entred in this Office it is accounted a Fine in Law.

From the Silver-Office you must carry it, as annexed, to the Chirographer's Office, for the Indentures to be made upon it: where it is left on Record, and the Indentures you must give or send to your Client. Thus it is perfected.

Before the  
Chief Ju-  
stice.

If your Caption is to be taken before the Chief Justice at his Chamber, as it well may, if the Parties be in Town.

Then you must write a *Præcipe* and Concord in Parchment, and another in Paper; to which the Parties must subscribe their Names. Then they must go with you to the

the Chief Justice, and acknowledge it before Com. Pleas. him; and you must leave the Paper *Præcipe* with the Judges Clerk.

Next, you may bespeak your Writ of *Covenant* of the Curfitor, and proceed through the Alienation-Office, Warrant of Attorney, Return-Office, *Custos Brevium*, King's-Silver, and Chirographers-Office, as before; annexing the Caption to the Covenant, before you carry them to the *Custos Brevium*.

If your Acknowledgment be before another Judge at the Assizes, as it may. At the Assizes.

You leave the *Præcipe* and Concord with the Judge's Clerk, and when the Judge comes to Town you must bespeak of the Curfitor of the County a General *Dedimus*, to be directed to that Judge, and his Clerk will return the Substance of the Concord on the back of the *Dedimus*.

Then you must get a Writ of *Covenant*, and compound it as before, and pass it through all the Offices, as before, with the *Dedimus* annexed, before you go to the *Custos Brevium*, &c.

*Fine from one to one of a Messuage, &c.*

**Som's N. Præcipe A. B. qd' iuste, &c. ten' C. D. Con, &c. de uno mesuagio duobus gardinis viginti ac' terre decem ac' prati & decem ac' pastur cum pertin' in F. & nisi, &c.**

**Et est Concordia illis scilicet qd' p'dice A. Recogn' p'dice tēta cum pertin' esse jus ipsius**

Com. Pleas.

**W**ipius C. ut illi que idem C. het de dono  
p'dice A. Et illi remis & quier clam de  
se & heredibus suis p'dict C. & heredibus  
suis imp'pund Et p'eterea idem A. con-  
cessit p' se & heredibus suis qd' ipd' Warr  
p'dice C. & heredibus suis p'd' teñta cum  
ptin' contra ipm' A. & heres suos imp-  
pund Et p' hac, &c.

Cape & cogn' . . . . .  
die . . . . . Anno  
Reg' Dom' Willi' tertij  
nunc R's Angl, &c. 12.  
coram—

By One to Two of a Messuage, Lands and  
Common.

Som's R. Pr' A. B. qd' iuste, &c. ten' C.  
D. & E. f. Con', &c. de tribus melu-  
agiis quinq' gardinis centum ac'r terre  
ducene ac'e bolci & coia' p'astur' p'oi' odis  
averiis cum pertin' in G. & H. Et  
nisi, &c.

Et est Concordia talis scilt' p'd p'dice A.  
Recogn' p'dict teñta & coiam cum ptin' esse  
ius ipius C. ut illi que iidem C. & E.  
hent de dono p'dice A. Et illi remis &  
quier clam de se & heredibus suis p'dice  
C. & E. & heres ipsius C. imp'pund Et  
p'eterea idem A. concessit p' se & heredibus  
suis qd' ipd' Warr p'dice C. & E. & here-  
dibus ipsius C. p'dict teñta & coiam cum  
pertin' contra ipm' A. & heres suos imp-  
pund Et p' hac, &c.

Cape

Cape & cogn  
die . . . Anno  
Regn Dom Will tertij  
nunc Regis Angl 12.  
cozam —

Note, Tho' there be divers Cognizees, yet the Right shall be limited to one of them only, and the Estate limited to his Heirs only, whose Right it is acknowledged to be. But if the Cognizees be Joynt-Purchasers, it is said *heredibus suis* instead of the Heirs of one of them.

If a Fine be levied by Two, and *heredibus* without the word *suis*, it's said this will be void for Uncertainty in a Fine, as in a Deed.

From Husband and Wife, of the Husband's Lands.

Donns N. P. R. B. & C. Ur' ejus qd' iuste, &c. ten D. C. Con (&c.) de (&c.) as before. )

Et est Concordia tñs scit qd' pdice A. & C. recogn tñta pdice cum ptin esse ius \* If you know not ipis D. ut ill que idem D. het de dono whether pdict A. & C. & ill remisit & quiet clam they are de ipis A. & C. & heres \* ipius A. pfac the Lands D. & heres suis imppum Et pterea ii of the Husband or dem A. & C. concesser p se & heres ipius Wife, then A. qd' ipd Mari pñ D. & heres suis pñ say, here- tñta cum ptin contra ipos A. & C. & heres dibus suis. red

Com. Pleas. red ipsius A. imppum Et pro hac, &c.

From the Husband and Wife, of the Wife's  
Lands.

Wiltz it. p̄r A. B. & C. B. H<sup>r</sup> ejus qd  
juste, &c. ten' D. C. Con', &c. de (&c. as  
before, naming the Parcels. )

Et est Concordia t̄lis scilicet qd' p̄d A. &  
C. recogn' p̄dice tenementa cum pertin'  
esse jus ipsius D. ut illi que idem D. her  
de dono p̄dice A. & C. Et illi remisit &  
quies clam de ipis A. & C. & heres ipsius  
C. p̄fac D. & heres suis imppum Et  
p̄terea iidem A. & C. concess. p se & heres  
ipsius C. qd' ipd Warī p̄dice D. & heres  
suis p̄dice tēta cum ptin' contra p̄dice  
A. & C. & heres ipsius C. imppum Et pro  
hac, &c.

Note, Many to make the Warranties sure  
in case of Man and Wife, do first make  
a Warrant from the Husband, as before,  
365. and then add a Warranty to bar  
the Wife's Heirs thus: (*viz.*)

Et ulterius iidem A. & C. concessit p  
se & heres ipsius C. qd' ipd Warī tēta  
p̄dice cum ptin' p̄fac D. & heredibus suis  
contra ipsos A. & C. & heres ipsius C. im  
pum Et p hac, &c.

When



When a Fine is from divers, the Fee is supposed to be in one of them only, if it so be, and the Release and Warranty from him.

But generally where there are divers Cognizors, the Release is from them and their Heirs: As thus:

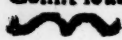
(Viz.) From Three to Two.

Et est Concordia tñs scit qd' pdice A. B. & C. Recogn teñta pdice cum pertind esse jus ipsius D. ut illi que iidem D. & E. hent de dono pdice A. B. & C. Et illi remis & quies clam de ipis A. B. & C. & hered' suis pfac D. & E. & hered' ipsius D. imppum Et pterea iidem A. B. & C. concessit p se & hered' ipsius A. qd' ipd Warr teñta pdice cum ptind pfac D. & E. & hered' ipsius D. contra ipos A. B. & C. & hered' ipsius A. imperpetuum Et p hac, &c. Warranty.

If the Warranty be general, you may say, contra omnes homines imperpetuum.

Also generally in such Cases of divers Cognizors, they warrant apart, as thus:

Et pterea idem A. concessit pro se & Warranty hered' suis qd' ipsi Warr teñta pdice cum apart. pertind pfac D. & E. & hered' ipsius D. contra pō A. & hered' suos imperpetuum Et ulterius idem B. concessit p se & heredibus suis qd' ipsi Warr teñta pdice cum ptind

**Com. Pleas**  pertinē p̄lat D. & E. & hered' ipsius D.  
 contra p̄dice B. & hered' suos imperpetuū  
 Et etiam idem C. concessit p̄o se & here-  
 dibus suis qd' ipsi Warē tenita p̄dice cum  
 pertinē p̄lat D. & E. & hered' ipsius D.  
 contra p̄dice C. & hered' suos imp̄petuū  
 Et p̄o hac, &c.

**Several Purchasors.** And so of the like by these Words, Et  
 p̄terea, Et insuper, Et etiam, Et ulte-  
 rius, Et deniq, &c. and the like.

And note, That Lands bought of divers  
 Persons, by several Purchasers, may pass  
 very well in one Fine, and then the Writ of  
 Covenant must be brought by all the Ven-  
 dees against the Vendors, and every Vendor  
 must warrant against himself and his Heirs  
 only.

**Several Counties.** And note farther, That one Concord may  
 be of Lands in several Counties, and the Fine  
 p̄ licentia Concord' of all extracted intirely;  
 but there must be several Writs of Covenant  
 retornable all at one day.

And so if the Lands lie in a Parish that  
 extends into several Counties, you may sue  
 out a *De p̄* from the Cursitor of which of  
 the Counties you please, but must set forth  
 what Lands lie in this County, and what  
 in the other.

The

The Clerks of the Chirographers Office Com. Pleas. will demand for an Indenture with single Warranty 3 s.

Every other Warranty 6 d.

For a *Post Terminum* 6 d.

For a Warranty (tho' not express'd) if there be so many Cognizors, as would make One, Two, or Three more, 6 d. *per* Warranty.

And some of them insist upon 6 d. for expedition of your Indentures, as if usually allow'd.

An Admission of an Infant to Sue by his next Friend.

*It. Concessum est p Cur hic qd A. B. gen & C. D. gen conjunctim & divisim sequenti p E. F. qui infra. etae existit ut pror' Amici ipsius E. & l'us G. H. de plito debi.*

This Admission may be to one Friend, and ought to be entred on the same Roll before the Declaration.

The Declaration runs thus :

*It. G. H. nup de &c. ad respond E. F. de plito (&c.) Et unde idem E. F. p A. B. gen (qui admissus est p Cur Regis hic ad prosequens p eodm E. F. qui infra etae existit ut ( pror' amicum ejusdem E. F. ) dic quod cum, (&c.)*

As an Infant Sues by his next Friend, so he must appear by his Guardian or Keeper; and if such Guardian cannot be admitted in Court, or before a Judge at the Assize, then you must bespeak a *Dedimus potestatem* of the Cursitor of the County for Commissioners to admit him *Custodes* to Answer the Plaintiff *de plito* &c. (put in narr') the like if he plead *p' pror' amicum*, and he be not otherwise admitted.

The Caption to be written on Parchment thus :

Virtute huius Domini Regis huius Schedule annex, Nobis & quibusdam W. S. M<sup>g</sup>is C. W. R. W. (Et.) direct' primo die Maij Anno Regni Dicti Domini Regis 12<sup>o</sup> Nos quorum nomina subscribuntur admissimus R. S. & C. W. gen<sup>l</sup> Custos J. H. in brevis p<sup>o</sup> nominat infra etate existens ad psequens & defens loquelam que est coram Justic Dicti Domini Regis de Banco p brevis dicti domini Regis inc plat J. H. & C. W. de plito r<sup>l</sup>sg<sup>r</sup> (or debi, Et.) ut dicit scdm tenorem ejusdem brevis. In cuius rei Testimonium sigilla nra appos die & Anno sup dictis.

L. M.

N. O.

The

The *Dedimus* must be Return'd thus on the backside *Exrecue* istius *Comd* patet in quadam *Schedul* huic *breui* annex'.

L. M.  
N. O.

These being Return'd back to you, must be carried to the Cursitor to make a *Mittimus* and Transcript, which must next be entred on a Roll after this manner.

Entry of *Mittimus* and Transcript of Admission of a Guardian.

*Dominus Rex* Mand' *Iustic* suis de Banco hic *breve* suum de *mittimus* clm unacum tenore cuiusdam *bris* de *dedimus* potestatem de *custos* admittens & retorn ejusdem nec non *Custos* inde admis' in hec verba. *Gulielmus tertius*, (Ec. to the end of the *Mittimus* and Transcript, viz. to the end of the Capton L. M. N. O.)

A Plea by Guardian. Et p'd J. H. p L. M. (qui admissus est p Cur' Regis hic ad defend' p eodem J. qui infra etat existit ut Guardian (or Custos) ipsius J.) ben & defend' vim & injur' quando Ec. Et sic (Ec.). (ut in al.)



**RULES** to be observed in the Court of Common-Pleas, in the Proceedings upon Declarations delivered to Prisoners in Custody in County Gaols.

1st. **T**hat no Copy of any Declaration shall be delivered to a Prisoner in Custody until after the Process upon which such Prisoner shall be taken or charged in Custody, be returnable.

2dly, That no Rule shall be given for the Defendant in Custody, to appear and Plead to any Declaration against him, until an Affidavit be Filed with the proper Secondary, of the delivery of a Copy of such Declaration, and of the time when, and the Person to whom the same Copy was delivered; and the Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no Appearance is entred with him.

3dly, If a Copy of the Declaration be delivered before *Mensem Paschæ*, or *Crastinum Animarum*, and Affidavit thereof made and Filed; and the Defendant doth not enter his Appearance with the proper Office within ten days after *Easter* or *Michaelmas* Term respectively, Judgment may be entred against him, upon the Certificate as aforesaid, if Rules have been given;

given; but if he doth not enter his Appearance as aforesaid, before the end of ten days after the Term, he shall imparle until the next Term; unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within Forty Miles of the City of *London* and *Westminster*; then though he doth appear before the Expiration of ten days after the end of the Term, he shall Plead two Days before the Effoyn day of the next Term; and in default thereof, Rules having been given, Judgment may entred against him as aforesaid.

4thly, If a Copy of the Declaration be delivered on, or after *Mensem Paschæ* in *Easter* Term, or *Craftinum Animarum* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and the Plaintiff thereupon shall gives Rules to appear and plead, if the Defendant enter his appearance two days preceding the Effoyn day of the next Term, he shall imparle until the said next Term: But if he does not appear within that time, Judgment may be entred against him as aforesaid.

5thly, If the Writ be retornable in one Term, and a Copy of the Declaration be delivered before the Effoyn day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and Plead by that time that the Rules are out, Judgment may be entred against him as aforesaid.

6thly,

6thly, If the Declaration be not entred or left in the Office before the end of the next Term, after the Writ or Proceſs (by which the Priſoner ſhall be taken or charged in Cuſtody) be retornable, and an Affidavit made, and Filed in manner aforeſaid, before the end of Twenty days after ſuch Term, ( *Eaſter Term* excepted, and within Ten days after *Eaſter Term* ) the Priſoner ſhall be diſcharged upon the entring of his Appearance with the proper Officer, by Writ of *Superſedeas* made by him, according to the ancient practice of this Court.

7thly, If any Gaoler or Keeper of a Priſon, having received a Copy of a Declaration againſt any Priſoner in his Cuſtody, ſhall ſuppreſs the ſame, or not deliver it forthwith to ſuch Priſoner, an Attachment ſhall be iſſued againſt him.



*Geo. Treby.*

*Ed. Nevill.*

*Job Powel.*

*Tho. Rokeby.*

*Many*

*Many Special Notes and Observations in the Court of Common-Pleas, taken by an eminent Attorney of that Court, and Alphabetically digested.*

*Which may be of good use to a Young Clerk.*

**Abatement.**

**W**HERE there are more than one Plaintiffs, and one of them dies before Judgment, the Writ abates: But if one of the Owners in Ejectment dies, the Declaration is good; for the Interest survives, and the Plaintiff is still living, 1679.

One Plaintiff dies, the Writ abates. Contra in Ejectment.

Com. Pleas.

Judgment  
in Abate-  
ment.

Mr. *Livesay* told the Lord *North*, That upon a Plea in Abatement, if the Plaintiff demur, the Judgment is *Respondeat Ouster*: But if upon a *Pul rici Record* (which is a Plea in Abatement) there be Judgment p defect' de Record, the Judgment is final; for Tryal and Record is quasi as pais, p tot' Cur'.

## Action sup Case.

Note.

All Causes that come into this Court, come in one of the following ways, (*viz.*) First, By Original; as an Arrest and Outlawries. Secondly, By Privilege or Attachments for, or Bills against Privileged persons. Thirdly, Out of Inferior Courts of Record by *Habeas corpus*. Fourthly, Out of Inferior Courts not of Record, by *Retoz dare*, *Done*, *Accedas*, and Writ of False Judgment.

Cap' cum  
Acetiam.

Where your Cause of Action is Debt and requires Bail, as all do where the Sum to be inserted in the Writ is 10 l. or above, your best way is to take out an *Arctiam Capias*, the Original to which *Capias* is only a bare *Clausum fregit*; and you may afterwards, when you come to Judgment, file a New Original to warrant such Judgment. Whereas, if your *Capias* be Special, by *prcipe qd reddat*, &c. in case you happen to mistake either in the Names, *Alias dicit*, or *Sum*, 'tis pleadable in Abatement, and is not curable by filing a New Original afterwards; but you must discontinue your Action, paying



paying Costs, and begin it *de novo*, or else the Defendant, if he does not take advantage of it before, may after Judgment (where 'tis either by Confession or Default) by Writ of Error; so likewise if your Original happen to bear *Teste* before the day of payment, where you Sue on Bond or Bill.

Where your Cause of Action is in Case upon an *Assumpsit* only, and not any other sort of Action, you may have an *Actiam* for 10 l. or above, in like manner as in Debt, and may File New Originals, as above.

In case for 20 l. the Defendant made Affidavit, That nothing was due, and moved that the Plaintiff should accept of an Appearance, *Concess. p Cur', nisi Quer'* make out his Cause of Action. But this must be done by the Plaintiffs Affidavit. 10 l. holds to Bail upon an *Actiam*; but if the just Debt be under 10 l. if the Defendant makes Affidavit thereof, the Plaintiff shall be forced to accept of Appearance *p tot' Cur'*; the Fees of Executions are due to the Officers of the Liberty that execute them, and not to the Sheriff. *Vid. postea* 365, 368.

An Action brought for 10 l. the Defendant made Affidavit, That there was no more than 7 l. due, and prayed that upon bringing the 7 l. and Costs in Court he may proceed at his peril; and if he recover no more than 7 l. that then he may pay the Defendant the Costs (*Concess. p Cur'*.) But this must be before the Defendant hath pleaded.

No

Com.Pleas.

*Sur False  
Return,  
how to lay  
it.*

*Where an  
Assumpsit  
lies on an  
Action of  
Account.*

In an Action of *False Return*, the Plaintiff may lay his Action either in the County where the Return was made, or else in *Middlesex* where the Writ is Filed; and the Court will not change the *Venue*, if it be laid in either of the said Counties.

If upon an *Indebitat assumpsit* it appear at the Trial to be Matter of Account, and no perfect Account stated under the Defendants Hand, the Plaintiff must be Nonsuit, for he cannot thereby maintain an *Indebitat Assumpsit*; for whilst the Action is current there lies only an Action of *Account*: But when the Account is stated under the Defendants hand, and the Balance agreed, it then turns to an Action of Debt, or an *Assumpsit* will then lie for the ballance.

p. p.

*What Pro-  
mise makes  
a new Acti-  
on against  
the Statute  
of Limita-  
tions.*

If a Man *infra sex annos* do confess the Debt, the Statute doth not help it: but it must be an expresse promise that must give a New Cause of Action; as if a Debt due from three, and one *infra sex annos*, makes a New promise, you must expresse it in your Declaration, or else it will not avail you. But as to a Brewer, his Action shall be continued from the last Beer delivered; and so of other Trades. *Mich. W. & M. Pollexfen.*

*Charge of  
Testat. Ca.  
-as.*

The Charge of a *Testat Capias* is 3 s. 6 d. to the Philazer, who will make you it; and the *Cap* and the Seal 1 s. 2 d. which *Cap* you must carry to the Sheriff, and get him

him to Return it, and then File it with the *Com. Pleas.*  
**Custos Brebium.**

An Action of **Indebitatus Assumpsit** brought, and Statute pleaded, and the Plaintiff shews an Original issued in *London* in Trespass and Assault, and that he intended to declare on this Action; but others being in the same 'twas denied. *Trin. 2. W. & M.* Limitations pleaded.

An Action of *Conspiracy* against two, and but one is found Guilty; the Plaintiff cannot have Judgment. 2 *Rolls* 708. *Mich.* 1689.

### Action sur Statute.

Upon pleading *Nisi debet* upon a Special Statute, the Defendant may give Special Plea, Special Matter in Evidence. *Per Lord North, Mich.* 1679. General Plea, Special Matter in Evidence.

Upon Statute of Robbery, when the Rules to plead are out, you must move the Court before you can sign the Judgment. *Per Robinson. Sed Contra per Wyrley.* But both agreed, That the Court must be moved in case of all Penal Statutes. Move the Court before Judgment.

The Defendant was Arrested on a *Crim* *fregit arcem*, &c. and thereupon the Plaintiff declared in an Action *Qui tam*. Upon this Matter shewed to the Court, *per Cur.* the Plaintiff cannot declare so upon this Arrest; but he must Sue out a proper Original, and a *Capias* thereon, and Arrest upon it *de novo*. Cannot declare on a *Clausum fregit a qui tam*, &c.

An

## Special

*Acco's El.* An Action 5 *Eliz.* perverted, and no  
 for work- Costs or Damages allowed therein, *per* Lord  
 ing, being *Pollexfen* ; and it must be expressly proved,  
 not an Ap- that he himself did work on the Trade, or  
 prentice. else it is no proof, and you recover 40 s.  
*per* Month, but no Charges. Card-makers  
*versus* a Frenchman.

## Affidavit.

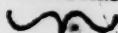
Country All Affidavits sworn before Commis-  
 Affidavits. sioners are Filed with the Secondary, and Co-  
 pies of them signed by him read in Court :  
 But all Affidavits Sworn in Town before a  
 Judge or in Court, may be read in Court  
 before the filing with the Secondary, and  
 they take for it when you come for the  
 Rule.

## Amendments.

Costs omitted in the Roll, and Error  
 brought, and denied to be amended. *B. G.*  
 75.

The Attorneys Name left Blank, and  
 amended after Error brought. *Hoyle versus*  
*Jennings M. 6 Guil & M.*

## Appearance.



Appearance.

Where your **Capias** requires Bail, the Defendant has no way but to make Affidavit, That he does not owe you 10l. and then the Court upon Motion in the Treasury on such Affidavit, will order a Common Appearance to be accepted, unless you shew cause to the contrary by a short Day.

Appearance must be accepted, if not 10l. due.

No Bail be given upon a Bail Bond, for that would be Bail upon Bail *in infinitum*.

Appearance on Bail Bond.

Notice must be given to the Plaintiffs Attorney, of the Entrance of an Appearance on a **Scire fac.**

Appearance on a Scire fac.

If the Defendant moves that an Appearance may be taken, the Court always puts it upon the Plaintiff to make out his Cause of Action by Affidavit; and if the Debt be but small, he must also in his Affidavit swear, that he is afraid of losing it; or else the Defendant shall not be held to Special Bail.

An Appearance on Entering.

That an Appearance should be taken at the Suit of an Attorney, the Defendant swore, That he owed nothing to the Plaintiff. *Pec Cur*, let it be Examined.

Adv. At. torn.

If an Exigent be Returnable **Crō Wda 4**, *Ex' fa' M.* and you allow a **Superseas** in *Trinity 7 Gul' ter-Vacation*; yet the Defendants Appearance shall be but from **Crō Wda 4**. *Normansell versus Biggerstaffe.*

cij 1695.

Arrests



For taking  
a Prisoner  
in the Fleet  
to the  
Compter.

Against some Sergeants of the Compters,  
for arresting on the next day after the last  
Term (who was a Prisoner in the Fleet upon  
*Mesne Process*, ) and taking him away from  
his Keepers, moved to return the Prisoner  
to the Fleet, and to Commit the Sergeants.

Husband  
arrested  
for the  
Wifes Act,  
how to  
appear.

Where the Husband is arrested for the  
Trespas, or other Act of his Wife, under  
Coverture, he is bound to appear for himself  
and his Wife both. *Per North 25 Oct. 1679.*

Where Bail  
may sur-  
render  
their Pri-  
soner, and  
where not.

The Bail, after a Declaration upon a Bail  
Bond delivered against them, may at any  
time, before they have pleaded, or Judgment  
signed against them for want of a Plea, bring  
in the Prisoner \* in discharge of themselves.  
After the Return of the Second *Scire facias*  
against the Bail, they cannot surrender the  
Prisoner in discharge of themselves; but  
they may at any time before. \* And in the  
Vacation time they may carry him to a  
Judges Chamber, to be Committed, tho'  
before Judgment.

Where to  
have Bail.

If the Plaintiff be Non-suit, and afterwards  
commences a new Action for the same  
Cause of Action, she shall not have Special  
Bail in the Second Action, tho' he might  
have insisted on it in the first.

Bail just-  
ified, where.

Bail can be justified only in Court, and  
the Philazer where the Writ was issued out,  
is to bring along with him his Book, for  
which you pay him 3 s. 6 d. The late Statute  
gives leave to make Affidavits before Com-  
missioners.

Ordered,

Ordered, That upon a Writ ret the first <sup>Com. Pleas.</sup> Bail sued, Return of any Term, you shall not proceed on the Bail Bond, until the last return of the same Term ; or if the last return, not until the beginning of the next Term ; and likewise, That you have a *Cepi* returned and Filed before you proceed thereon, *Mich. 11. Guil. & M. Pollexfen.*

If the Writ be returnable in *Easter Term*, <sup>Superse-</sup> and nothing is done in *Michaelmas Term*, <sup>deas upon</sup> upon his getting of a Certificate from the <sup>the Gaolers</sup> Gaoler thereof, and getting signed fiat *Superse-* by a Judge, for which you pay 4 s. and carrying it to the Philizer, he will make a *Superse-* which is 3 s. 6 d. besides Sealing.

### Arrest de Judic.

Upon an *Insimul computasset*, and an- <sup>Pro parte</sup> other Count in Case at the end thereof this <sup>Narr' left</sup> (in consideration inde, &c.) was left out, <sup>out.</sup> because intire Damages was given, (part of the Declaration suggested to be insufficient) moved in Arrest of Judgment, *Mich. 24. Octob. 1689.*

Arrest of Judgment in Ejectment, because <sup>For want</sup> no notice of Tryal by two Affidavits, one of Notice by the Tenant in Possession, the other by <sup>of Tryal</sup> the Attorney, &c. *Contest per Cur'.*

Arrest of Judgment, and for a new Tryal, <sup>For excess-</sup> because excessive Damages were given in <sup>sive Da-</sup> an Action of Slander and Conspiracy not <sup>mages.</sup> proved. *Per Cur'.* That to stay Judgment on an Action of words, That a Woman has had

**Com. Pleas.** had a Bastard not accountable, unless special Damages be proved.

**A general Rule for arresting Judgments.**

When you alledge matters of fact in Arrest of Judgment, the matters of Fact must be proved by Affidavit in Court, 26 Octob. 1679.

**For want of due notice,**

In Arrest of Judgment, because the Defendant had but 10 days notice, before the Tryal at the Assizes and referred. *Per Cur.* But afterwards, this Morning the like Case being moved, Mr. *Wryley* Prothonotary said, that 8 days notice exclusive was sufficient notice, before any Tryal at the Assizes, and that 14 days notice was to be given only where the Action was laid in *London*, above 40 Miles; otherwise, 8 days notice exclusive, and Mr. *Wryley* referred himself to the printed Rules of the Court, which were read by Mr. *Cooke*, *vid. Compl. Attorney* 307. and then the Court agreed unto it. Lord *North* said, That he had been all along mistaken; for that he had thought 14 days notice before Tryal at the Assizes, to have been the practice of the Court.

**A general Rule.**

**For want of due notice to change the Venue.**

When you move in Arrest of Judgment, you must bring your Issue Roll into Court.

In Arrest of Judgment, because the Plaintiff having changed the Venue by rule in the Treasury, gave not sufficient notice to the Defendant after the Venue so changed. *Per Cur.* To set aside the Judgment, and restitution awarded to the Defendant, 27 Octob. 1679.

No

No motion to be made in Arrest of Judgment, after the first 4 days in Term by *Wyrley* Prothonotary: But the Court did give the Bar a further day to move upon Peremptories: And in Arrest of Judgment in those Causes, whose Names the Sergeants should give the same night to the respective Prothonotary, in whose Office the Record was. *Quere*, if this be the practice of the Common-Pleas.

Com Pleas.

Arrest of Judgment to be moved in 4 days of the Term, unless some peremptories.

To stay Judgment on an Action of Trespass for mean profits, where the Tryal of an Ejectment was by Surprise, where 60 years Possession was had by Lessee in an Action of mean profits, they might have pleaded Specially, as *Son Frank Tenement*. *Per Cur*. They could not help him, *Mich. 1689*. Lord Chief Justice *Pollexfen*, *Styles versus Coomes*.

In an Action of Trespass for mean profits.

That there was in *Parr' contra pacem Dñi Regis* nunt; and so the Issue, and the Roll, and the Record raised, and made *contra pacem Dñi Jac Scoti nuper Regis Angl, &c.* that Judgment might be set aside. Ordered, That because there wanted an *Alias prout patet* in the Roll, should be arrested, *Reed versus Palmer, Mich. 1689: Pollexfen*.

For want of Form. For want of appearance.

To set aside Judgment, because an appearance was not entred by the Defendants Attorney, who had a Warrant to appear, and the party was not arrested, referred to be examined, *Mich. 1690*.

Com. Pleas.

Executors  
for want  
of Form,  
Cro. Jac.  
10. *idem*.

Note its said, that in *Trin.* 96, the Court would not help the Defendant in the like case.

An Action upon the Case, upon several Promises against an Administratrix, moved in Arrest of Judgment, because they did not shew that Administration was committed to the Plaintiff; for if an Executor or Administrator be Plaintiff, they must set forth where, and when, and by whom they had Administration granted; but if they be Defendants, it need not be shewn how they had their Executorship. Stay till Plaintiff move it, *Lyndsal versus Brockton & al' Mich.* 1689.

Defendant  
before  
Tryal  
treated the  
Jury-men.

Because the Defendant before the Tryal did tamper with one of the Jury, and afterwards treated them, and allowed to be good Cause to Arrest Judgment, *Pasc. 2 W. & M. Pollexfen* Lord Chief Justice.

Knave pro  
Attorney  
quod.

(*He is a cheating Knave*) and not to fit be an Attorney. But does not lay any Colloquium But only declares, That he is an Attorney, and so lost his Practice, adjudged Actionable, *Mills versus Mitchell*.

For wrong  
conclusion.

Concluding in an Action of Assault contra pacem Dñi Regis, where it should p Staac 1 W. & Marie have been contra pacem Regni. Judgment Arrest, *Isley versus Racy*.

No Title  
needs in  
Trespas.

In Trespass for disturbing of an Highway, and doth not set forth his Title, denied. For when the Right is tryed, it is no matter whether substance or no substance: Is cured after Verdict by the Statute of *Jeofails*, *Winford versus Woolerton & al'*.

In



In an Action of Trespass, and the Count Com Pleas. says, *quod cum* or *quare cum* and arrested, *Quod & quare cum*  
*Keeble 357: 2 Keeble 400. 3 Cro. 57. Ashton versus Whitton, Hort versus Chapman, Jeffe- in transgr.*  
*ries Case, Fermins versus Currer, Hill. 7.*

## Attorn.

In Executions against Attornies and other privileged persons where your Judgments by Bill and are on proceeding by Bill or Attachment, Attach- instead of *Precepimus tibi quod Capias* you ment different say Attach, and make them retornable on a from those day certain like your Attachment; and the by Origi- like proceedings in the *King's-Bench* by nal. Bill.

Move to File a Warrant of an Attorney Warrant for the Tenant in a Recovery, (who appear- of Attor- ed by Warrant) after a Writ of Error brought, ney. it seems to the Court, the Warrant was burnt in the Attornies Chamber, by the Fire in 1678. No Certificate to be made by the Clerk of the Warrants, till moved by the other side.

A Warrant of Attorney to confess a Judgment cannot be revoked by Mr. Wyrley. Warrant of Attor- ney to confess Judgment.

Motion against the Secondary of the Compter, for not discharging an Attorney Judgment. upon a Writ of Privilege without Bail. Per Lord North, If an Attorney be sued by Process out of an Inferior Court, a Writ of Privilege should be allowed, and he there-upon discharged. But if by Process out of a Superior Court, he must bring his *Superseas*, because the Superior Court is of  
 B b 2 equal

Com. Pleas. equal nature with the Writ of Privilege.

*Quare*, If a **Superfedeas** must be prayed by Motion in the Treasury in the Term time, and how in the Vacation. It was alleged by the Plaintiff, That the Attorney kept an Ale-house, he being asked why he sued out a **Capias** against him, before he forejudged him. Upon this the Prothonotary and Court said, That he must ( and so the Course is ) make his Election whether he will leave off his Trade or be put out of the Roll.

Cannot be  
an Attor-  
ney and  
an Ale-  
house-  
keeper, &c.

*Utl' vers.*  
*Attorn' Su-*  
*perfedeas*  
upon Ar-  
rest.

After you Sue an Attorney by Bill, you cannot have an **Utl'** against him after Judgment. If you Arrest an Attorney before he is forejudged, he may discharge himself by **Superfedeas**.

No *Venue*  
altered at  
an Attor-  
nies Suit,  
if laid in  
*Midd'x*.  
Forejudger.

If an Attorney sues for Fees, &c. and lays his Action in *Midd'x*, the Court will not alter the *Venue*, ( tho' the Cause he was employed in was laid in another County ) for the Debt arises in *Midd'x*, where the Records lie, and the business is due.

After an Attorney is called in Court upon a Bill Filed against him, you must give a Rule, and if he appear not, then he will be forejudged.

Writ of  
Privilege.

If an Attorney would save and Arrest, upon Process of one of the Courts at *Westminster* by his Privilege, he must deliver the Writ of Privilege to the Sheriff, and allow it with him ( the Fee is 2 s. 4 d. ) otherwise, if the Writ be not allowed, and the Attorney be arrested, the Sheriff cannot then discharge him upon his Writ of Privilege: But he must

must then discharge himself by pleading his Privilege. But if the Process be out of an Inferior Courts, its a Discharge as abovesaid, and the Plaintiff must Sue above.

Com.Pleas

Two Attorneys agree to remove a Cause out of an Inferior Court, and no ~~Retor~~ <sup>To remove</sup> <sup>a Cause</sup> <sup>out of an</sup> <sup>inferior</sup> <sup>Court.</sup> <sup>Attorney</sup> <sup>to be sued</sup> <sup>in Midd<sup>x</sup></sup> <sup>and not</sup> <sup>else.</sup> <sup>Privilege</sup> <sup>pleaded.</sup> <sup>dare</sup> is issued out, referred to be examined *Mich. 1689. Pollexfen.*

An Attorney may chuse whether he will Sue or be Sued out of the County of *Midd<sup>x</sup>*, because his attendance is supposed always to be there. *Trin. 3. W. & M.*

An Attorney if he plead his Privilege, it must be *sub pede sigilli.*

Cannot plead *Stat Limitations* to an Attornies Bill, but may *quatenus* Solicitor, *Modern Rep. Miles versus Gunthrop, Trin. 92. Treby.*

The want of Filing the Bill against an Attorney is not helped by the Statute of *feofailles*, but Erroneous, *B. G. 88.*

### Attachment.

When a Defendant is taken on an Attachment for Contempt, as for not paying Costs on a Rule, or the like ( which Attachments are never granted but on Affidavit and Motion ) he gives a Bail Bond to the Sheriff, and at the Return of the Writ appears not by Attorney but personally in Court, and then enters into Recognizance to appear there *de die in diem* till the Court shall otherwise determine; then upon Motion by Council the Court Orders, that un-

Attach-  
ment on  
Contemp

less his Adversary exhibits Interrogatories against him within 4 days after notice he shall be discharged, the Interrogatories must be filed with the Secondary of that Office its in, and by him the Defendant must be examined, being first sworn before a Judge to deposite the truth after his Examination; the Prosecutor takes Copies of his Depositions; and if he finds all denied, he brings up his Witnesses to prove the Contempt, *Viâ Jure* in Court, where the Defendant must appear to Confront them, and Answer the Questions the Court shall demand (he all the time kneeling;) if the Court judge him guilty of the Contempt, they send him to the *Fleet*, or else discharge him; if he neglects to appear before the Secondary to be examined, or afterwards before the Court upon his purgation, the Court on Motion will order his Recognizance to be estreated; if he confess any thing material in his Depositions, you need not send for Witness, but move on his Confession and pray the Courts Order therein.

An Attachment against an Attorney to Bail if the Debt be 40 s. if Narr<sup>r</sup> delivered before Bail 'tis waved. A tach- pro Costs.

*Per Mr. Robinson* said, that an Attachment at the Suit of the Attorney by the Custom of the Court holds to Bail, if the Debt be 40 s. But if the Plaintiffs Attorney delivers a Declaration before Bail is put in here, he thereby waves his Special Bail, and shall not force the Defendant to put it in afterwards.

Where a Man is taken upon an Attachment for Costs, he must pay the whole Costs of the Attachment, besides the Costs before taxed; also that Bail may be given, and ought

(if

(if sufficient to be accepted) upon an Attachment for Contempt. Com. Pleas.

A Feme Covert is taken on an Attachment on Contempt, must answer in Custody if her Husband will not appear for her.

*Feme Covert.*

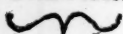
After Costs are demanded, an Attachment for them may be made of course ; but the Prothonotary will not sign it, unless (you bring a Rule for it, which the Secondary will make of our course) upon sight of the Rule, whereon the Costs are taxed, and Affidavit that after (an *Hab Cor*) they were demanded. Attach-  
ment pro  
Costs how.

*Procedendo* was moved for---upon a Foreign Attachment. Lord North, if the Bail be put in, the Attachment is dissolved, if the Bail be refused, there must go a *Procedendo* for want of Bail. Procedendo  
on an At-  
tachment.

An Attachment where a *Rescous* was returned, and several of the Defendants made Affidavits, that they were not there at the time the *Rescous* pretended. Ordered, That an Attachment go against the Bayliff---there need no Interrogatories on an Attachment for Rescue, the Court being to Judge and set your Fine, *Pas. Gul' & M. Pollexfen.* Attach-  
ment of  
Rescous.

No Attachment to be granted until a *Disi Causa* Rule be served, *Trim. 93. Treby.*





## Special

## Audita Querela.

Taken in  
Execution  
after re-  
lease.

*Metcalf v. Lloyd, Mich. 91.* The Defendant in *Trinity Vacation* was taken in Execution, having before the time paid the Plaintiff, and had her Receipt; yet ordered that he must for all that bring his **Audita Querela** if he will be relieved.

## Bankrupt.

Bankrupt.

**P**er Cur' No Creditor is bound to give Security against a Statute of Bankrupt, upon an Attachment of Monies due to his Debtor; the best way for it, in whose hands the Money is Attached, is to let a Judgment for the Money so Attached be had against him, and that will be for him a sufficient Discharge.

Assign-  
ment by  
Commis-  
sioners.

If the Debt be assigned by the Commissioners of Bankrupt, such an Assignment is a good Plea against the Bankrupt, *per North.*

## Covenant.

Bail on  
Covenant.

**O**NE was arrested upon an Action of Covenant, to levy a Fine ( he had received 400 l. and was to have 100. after the Fine was levied ) and was committed to the *Fleet*, till he either found Bail, or levied the Fine according to the Covenant. This was a Special Case, for Special Bail is seldom

dom granted in an Action of Covenant, unless it be to pay the Money. Com. Pleas.

## Debt.

**T**HE Plaintiff after the Return of his Writ, has two Terms to declare; for instance, if the Writ be *Quinden Martini* he has till the Essoyn-day of *Quind pas* and then if no Declaration comes in (after a Rule given for that purpose is out) the Defendant may sign a *Non pros*, and have \* \* Usually  
26 s. 8 d. 23 s. 4 d. Costs allowed him, for which he may either take out Execution, or bring an Action of Debt, adding a *Mutuarus* to bring it within the Cognizance of the Court.

In all Actions where the *Capias* is Special, having the Cause of Action inserted in it, as in Debt by *Precipe qd reddat*, &c. in Covenant by *Precipe qd teneat Convencom* &c. or in Case of Trespass, &c. reciting the Cause of Action at large; if it be returnable the first return the Defendant cannot require an Impar lance, but is bound to plead the same Term: And if the Cause be in *London* or *Middx*, he must plead 4 days after the Receipt of the Declaration, to Declarations on *Scire fac*, and after reversal of special Outlawries, Impar lances are not to be required; \* And here I mean by special Outlawries, such as are not upon *rim fregit*, Original, but upon Special Writs, as above.

If

Com.Pleas.

*Uncore  
prist not  
pleadable  
after Im-  
parlance  
upon Bond  
for perfor-  
mance of  
Covenants.  
Money  
paid into  
Court.  
Date mi-  
staken,  
how to  
plead.  
Or an A-  
ction of  
Debt on a  
Judgment.*

*How to  
Sue an  
Original  
where part  
is paid.*

If you intend to plead a Tender, you must not take an Imparlance; for after an Imparlance you are estopt to say *uncore prist*.

Debt upon a Bond for performance of Covenants, viz. not to use the Trade of a Carver. *Per Cur'*, It is safer to proceed upon the Covenants.

Where Money is paid into Court *per Reg'* upon a Speciality, there Interest must be paid till that time.

In a Declaration on a Bond, if the date be mistaken you must plead *non est factum*, *per Wyrley*.

If you bring an Action of Debt *sur Judgment*, you shall recover your full Costs, besides the full Judgment; but if you take out Execution upon the first Judgment, then you must pay the Sheriffs Fees. Therefore, where the Defendant is able and will pay, your best way is to bring an Action of Debt upon the first Judgment.

If a Bond be for 100 l. or more, and part be paid you to save the Fine, (if the residue be not finable) Sue out your residue only, and declare upon that Original for the whole Bond; but then you must be sure to alledge in your Declaration *Satisfecit* for so much as is received, and declare only for the residue. If you do not so, the Defendant may plead the Variance (between the Original and the Bond) in Abatement.

\* Above 40 l. is Finable, see amongst the Precipes.

Upon

## Notes.

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**¶** Upon a tender of the whole Money due (where the Debt is not by Specialty,) and the full Charges, if the Plaintiff goes on and recovers no more than the Money tendred, the Defendant shall have his Costs.

Com. Pleas.

Tender.

You cannot plead *Nil debet* to a Debt on a Bond ; but the Plaintiff must demur to such a Plea.

*Nil debet*  
to a Bond  
cannot be.

**¶** If one under Age enters into a Bond, and says he is of Age, though he may avoid it by his Plea of *Infra etat*, yet you may prefer an Indictment against him in the *Crown-Office* for a Cheat. This *per Lord North*, was adjudged in the *King's Bench*, That an Action of *Disceit* will not lie in Case.

Infant enters into  
Bond, what  
remedy.

Upon a Bail Bond, moved, That the Defendant in the Original Action might be admitted to bring in the Principal Money, Interest and Charges, and denied, because he was not in Court, *Pasch. 2 Gul' & Mariae* 1690. *Pollexfen*.

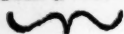
Principal  
in Original  
Action, not  
in *Cur*.  
When Bail-  
Bond sued.

An Action of *Debt* brought on a Bond, and after the arrest the Defendant Files a Bill in *Chancery*, and gets an Injunction, which is dissolved, and moved, That the Costs in *Chancery* may be allowed there ; which is granted.

Costs al-  
lowed that  
are ex-  
pended in  
*Chancery*.

p *Cur*.

Decla-



## Declarations.

Cost of  
Copies of  
Declarati-  
ons and  
Pleas.

All Copies of Declarations, Issues and Demurrers in Actions of Statutes, Debt on Judgments, *Scire facias*, Prohibitions, *Quare Impedit*, and Real and Mixt Actions, cost you 8 d. *per* Sheet. So likewise do Copies of Special Verdicts, and Writs of False Judgment, and all Copies out of the Treasury, and in paying for Copies of Issues and Demurrers in Common and Personal Actions. If in your Plea you have set forth Records, I think you pay 8 d. *per* Sheet for your Plea only, and 4 d. the rest.

Where one  
Copy is  
to be paid  
for.

Where a Defendant prays for Copy of Declaration, and the Cause comes the same Term to Issue, he is not obliged in taking the Issue, to take and pay for a Copy of the whole Book, for that were to pay for two Copies of one Declaration in one Term: but he must only pay for a Copy of the Plea and other Proceedings, which are subsequent to the Declarations. Against several Defendants in one Bond, if the Defendants all appear by one Attorney, he is not bound to take more than one Copy of the Condition.

Entring of  
Imparlan-  
ces, and  
when to  
file an Ori-  
ginal.

Entring Imparlanes is now almost left off; and indeed since we have so necessary a way of filing New Originals (which serves as well) 'tis best omitted: For you have many times occasion to mend your Declaration, which cannot so well be done after the Imparlance entred. Besides, If you enter your  
Impar-



Impar lance, and happen to have Judgment afterwards by Default or Confession, you are obliged notwithstanding to file a New Original, or else your proceeding will be vicious; for your Original on which your *Capias* is made, is generally a *Clausum fregit*, which is no Original to warrant your Declaration and subsequent Proceedings. Now this New Original must be Returnable in that Term whereof your Impar lance is entred, which many times cannot be; for we usually sign Judgment at the end or after a Term, when 'tis too late to bespeak an Original of the preceding Term, and of that Term it must be, or else it will do you no good; because it must antecede the Impar lance, and 'tis not prudence to bespeak it before you have, or see you shall have Judgment: For if the Cause happen to come to Issue, you have no need thereof. The want of an Original, as well as of an Impar lance, being no Error after Verdict, although the want of Warrants of Attorney is.

But where your Proceedings are by Bill, and not by an Original, as against an Attorney, &c. you must, if you give an Impar lance, Enter it; and likewise in all real Actions you must give an Impar lance, and Enter it.

In all Causes where you have given Impar lances, you may your self enter Rules to plead in the Common Remembrance without paying any thing; but where you give no Impar lance, you ought to enter the Rules with the Secondary.

So

Com. Pleas.

Amend-  
ment of  
Declarati-  
ons before  
Demurrer  
joyned.

So where the Plaintiff hath mistaken in his Declaration, and the Defendant hath either demurred or pleaded in Abatement to it, the Plaintiff having not joyned in Demurrer, may amend and force the Defendant to plead presently upon paying him 13 s. 4 d. Costs, or else may give him a further Imparlance and pay him no Costs. If the Defendant hath pleaded the General Issue, the Plaintiff may amend without paying Costs before he hath delivered a Copy of the Issue or afterwards with Costs.

Tender  
Costs, and  
and shew  
Rule upon  
Amend-  
ment.  
To declare  
against a  
Feme Co-  
vert in  
Prison.  
Upon a  
Nonsuit.

You must shew the Rule of Court, and tender the Costs thereby ordered to the Defendants Attorney, upon amendment of your Declaration, 25 Octob. 1679.

Where a man arrests and imprisons a Feme Covert, the Plaintiff shall declare the same Term, and the Feme shall plead her Coverture in Abatement. *Per Cur.* upon a Motion.

Where the Plaintiff is Nonsuited, and brings a new Action for the same Cause, he must pay Costs of the Non-suit before the Defendant is bound to plead.

Pay Pro  
Narr.  
In Eject-  
ment, to  
sever his  
Action,

If you deliver a Declaration, and afterwards Issue of the same Term, the Defendant shall pay only for the Issue, and not the Declaration again.

*Per Cur.* Where the Plaintiff (to save Charges) doth not sever his Action and deliver several Declarations, yet if it goes against him, the several Defendants shall have several Costs taxed by the Prothonotaries, and thereupon several Attachments.

In

*In Thesaurar' per tot' Cur'*. If the Plaintiffs Attorney mistake in the Declaration delivered, and he gives Notice thereof before the Essoyn-day, the Defendant cannot take any advantage of such Mistake whereof he had notice, because the Plaintiff may amend it; and it was then Ruled, That the Defendant, (who had pleaded in Abatement) because of a Mistake, whereof he had Notice before the Essoyn-day should plead in Chief, and should have no Costs. But Affidavit must be made of the Notice.

Where upon a Special Writ you plead the same Term, you must not pay for the whole Copy of the Issue; but only for so many Sheets as are over and above the Declaration you paid for before.

*Per Wyrley.*

The delivery of a Declaration on the Essoyn-day, 'tis not good to have a Plea the same Term, tho' it be delivered before the Essoyn is kept.

If Demurrer be not joyned, the other party upon paying Costs, may mend by course of the Court without Motion.

If a Declaration be delivered with Blanks, which are only Matter of Form, as for time, place, or name, the Defendants Attorney must call upon the Plaintiffs Attorney to fill them up, after some reasonable time the Defendants Attorney may demur therefore; but if he demurs without such calling for to have them fill'd up, the Court will set the Demurrer aside.

After

Com. Pleas.

Injunction.

Bail liable,  
and where  
not.Amend-  
ment of  
Declarati-  
ons.Pledges  
necessary.

After Issue joyned, the *Chancery* will not grant an Injunction, unless it be upon Special Matter there shewn.

If the Plaintiff will declare in another County than to which the Writ was directed (except in case of a *Testat<sup>o</sup>*) or in a greater or other Sum than is laid in the Writ upon which the Arrest, was, and to which they put in Bail, the Bail shall not be liable.

If the Defendant hath been at no Costs of Council for his Plea, the Plaintiff before Issue joyned may by course of the Court amend his Declaration upon paying his Costs, or giving a further Imparlance at his Election: But if the Pleadings be entred on the Roll, there are no amendments, but he may enter a Discontinuance and so go on *de novo*. *Trim. 1690.*

In Declarations either by or against Attorneys, you must at the end say,

*Pleg de ps, &c.*

*To. Doe.*

*Si. Roe.*

*Demurrers*

## Demurrer.

Where the Defendant either demurs, or is demurred unto, or he joyns in Demurrer, if he happen to be over-ruled he has no **Respondent Ouster**, but shall be condemned presently, and the Judgment against him is the same as by Default and Costs allowed. Whereas on the contrary, if it be adjudged against the Plaintiff, he loses his Action, but pays no Costs. And the Court usually, if the Plaintiff desires it, when upon Argument his default comes to be discovered, allows him liberty to amend, paying Costs, and orders the Defendant to plead to Issue presently. Where a Demurrer is to a Defendants Plea in Abatement; if the Plea be found insufficient he has a **Respondent Ouster**.

Before Argument the Court upon Motion many times allows the Defendant on payment of Costs to amend his Plea, when the Plaintiff has demurred to it, and he joyned: So likewise, if he has demurred and the Plaintiff joyned, the Court often suffers him to withdraw his Demurrer and Plead: But the Court usually in these cases takes notice, whether by this means the Plaintiff has been put by a Tryal; for if he has, they will scarce shew the Defendant so much Favour.

Where the Cause of Demurrer is Matter of Law, you are not bound to set it out in your Demurrer; but where 'tis Matter of

Judgments  
on Demur-  
rers.

Amend-  
ment after  
Demurrer  
joyned.

Where to  
demur, and  
where not.

D d

Form



**Com. Pleas.** Form you are. Therefore if a Declaration be fauley, and you think the Plaintiff cannot well find it out, your best way is not to demur; for then when he discovers his Fault, as of necessity he must when you set it out, he will amend; but your better way is to plead a Naughty Plea, such as he cannot well take Issue upon: For then if he demurs, the Fault appearing first on his side, you'll have the advantage.

Arguing  
Demurrers,  
and deli-  
vering  
Books.

When Demurrer is joyned, the Defendant is bound to receive and pay for one Book presently, then the Plaintiff having entred it on the Roll, delivers the Roll to the Secondary, in whose Office its in, and gets a Serjeant to move on it for a *Consilium*, or speedy Day to be heard, to Argue it which the Court grants on the Secondaries Reading the Record: If it be the beginning of the Term, it will come on the same Term, otherwise the next. Then the Defendant must receive and pay for two Books more, and the Plaintiff enters the Demurrer in the Court-Book with the Secondary of the Chief Prothonotary, who sets down on his Rule the day appointed for Argument, at least four days before the day of Argument; the Plaintiff delivers one Book to the Chief Justice, and another to the next Judge, and the Defendant delivers two to the other two Judges, paying with each Book 2s. He that demurs argues first: And if the Defendant hath refused to take and pay for his two Books, his Counsel is not to be heard; but the Plaintiff in such Cases delivers all  
four

## Notes.

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four to the Judges, and is to be allowed it in Com. Pleas.  
Costs, whether the Demurrer goes for or  
against him. The Court hears but two  
Counsel, that is, one of a side, in one day,  
and seldom gives their Judgments the same  
day: But if desired by either party, will hear  
a further Argument the next Term, unless  
the Case be very plain.

Upon a Demurrer before Joynder you Amend-  
ment.  
may amend, paying Costs.

If the Plaintiff demurs, and the Judgment No Costs  
paid on a  
Demurrer.  
be against him, the Defendant hath no Costs;   
for the Entry of the Judgment is *quæ Quer-  
nil capiat p hñd.*

By the Course of the Court the whole Re- Reading  
Demurrer.  
cord shall not be read upon opening the De-  
murrer, unless it be a Demurrer to the De-  
claraiton only; but where it appears upon  
the opening to be a Demurrer for delay only,  
the Court will hear the whole Record, tho'  
there be a Plea, &c. And if they find it only  
be for delay, they will give Judgment pre-  
sently.

## Dower.

All Process in this Action, from the Sum- Process in  
Dower.  
mons to the *Denire fac*, must have five Re-  
turns (whether inclusive or exclusive) be-  
tween the *Tessie* and the Return. In the *De-  
nire fac*, five days suffices, *per Stat. 17 Car.*  
N. B. Where a Writ of *Dower* is brought  
against several Tenants, every Tenant may  
Elsoyn for himself, and give an *Idem dies*  
to the other, and this is called by Elsoyn:

D d 2

but

Com. Pleas. but in the View their Attornment (tho' several) shall be one.

To sign  
Judgment  
in Dower,  
how.

You cannot sign Judgment in Dower of course when the Rules to plead are out; but you must move the Court, and have Rule for your Judgment.

Costs of  
Essoyn, &c.

When you cast an Essoyn you pay 10d. and 4d. if more Tenants than one for an *Idem dies*, and 4d. for your Rule to adjourn.

### Ejectment.

Delivery  
of Declara-  
tion.

**D**elivery of Declarations in Ejectment must be to the Tenant himself in possession, or his Wife, otherwise not good, tho' it be to the Tenants Apprentice, unless the Tenant doth afterwards acknowledge the Receipt thereof; and of his acknowledgment there must be made particular acknowledgment in the Affidavit.

p Mr. Bagnall.

Plaintiff  
in Ejectm.  
dies before  
Issue  
joined.

In Ejectment there was a Trial to be at Bar this *Michaelmas* Term, and before Issue joyned the Plaintiff died: Motion, that they might make a New Plaintiff. *Per Cur.* That cannot be by Rule of Court, because by his death the Action is abated: But the Court advised the Defendant to agree to it. *Mich.* 1679.

In

## Notes.

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In Ejectment a Copy of the Issue signed and delivered to the Defendants Attorney, the Time of the Demise was left out, and no *Habent* in the Declaration, it was referred to the Prothonotary to examine. Mr. Robinson said, That the Rule to confess Lease, Entry and Ouster would help it.

Com. Pleas.  
No *Habent* nor time of demise in the Copy de Issue.

The Court will never compel a man to enter into a Rule for more Lands or Tenements in the Declaration mentioned, than in his possession.

Not to enter into a Rule for more

It is the Course of the Court to make the Tenant in possession plead, or else to give Judgment the same Term against the Casual Ejector in *Michaelmas* and *Easter* Term, by reason of the length of them, altho' the Declaration was delivered after the *Essoyn* day of the same Term, if within the first or second Week thereof. *Per* Mr. Robinson and Mr. Wyrley, and in the Indorsment you must say the beginning of this present *Michaelmas* Term.

Lands in possession, Judgment given the same Term if Tenant do't nor plead.

A Declaration in Ejectment left with Tenants (in possession) Apprentice, and held good: But in the Affidavit of your leaving the Declaration, you must insert the Christian and Surnames of the Defendants Apprentice, or of any other of his Servants, or his Sons or Daughters, because of the Incertainty, for that he may have more than one Apprentice Servant, Son or Daughter: But good if delivered to a Wife; and you need not name her Christian Name in your Affidavit, because a man ought to have but one.

Of whom to serve Narr' in Ejectme

28 Oct. 1679. But see after.

D d 3

In

Com. Pleas.

To super  
sede Exe-  
cution.

In Ejectment to supersede the Execution, because it seemed to be by Covin with the Tenants Maid, who kept the Declaration delivered to her by the Plaintiffs Attorney, and never told her Master of it till after that Execution came out and was executed upon the Premises. Rule, That the Lessor of the Plaintiff should be examined in Court, and that they should have the Maid there on the 18th of *Novemb.* 1679.

T rial put  
off.

In Ejectment, the Defendant moved to put off tryal till *Easter* Term; because his Witnesses being old could not Travel. *Concess.* *per Cur.* Upon giving Security for the Mesne Profits.

Affidavit  
in Eject-  
ment.

In delivery of a Declaration in Ejectment, you must swear the delivery on the Premises, and that the party is, or that he acknowledged himself to be Tenant in possession.

Ancient  
demesne  
pleaded.

The Court was moved to plead Ancient Demesne. *Concess.* *Per Cur.* and let the party in possession be made Defendant, and let the Plaintiff deliver a new Declaration, and the Defendant plead within two days after.

Serving  
Declarati-  
on in  
Ejectment.

If there be no Body in the House, or upon the premises, you may Seal a Lease of Ejectment: But if you proceed by delivery of a Declaration (as the usual Course is) it must be left with the Tenant in possession, &c. and not carried into or left in the House; for this is not sufficient Service.



## Notes.

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Com. Plea<sup>s</sup>.

*Per North.* If the Plaintiff, who really hath the Title, is cast at the first Trial, if he brings it about again, the best way is to lay the Demise to the Plaintiff, to bear date before the demise of the former Action (if he had then any Title) and declare, That the Defendant the same day *intravit & ejeat*; for by this means, if he recover, he may bring an Action afterwards for the Mesne Profits, and recover from the day of the Demise, whereby he will reimburse himself of what Mesne Profits were recovered against him on the former Trial, and to reimburse himself he hath no other way but this.

Direction  
to lay the  
Demise in  
an Ejectm.  
to regain  
the Mesne  
profits.

Declaration must be left with the Tenant in possession, or he must acknowledge the receipt thereof, else not good. Notice to the Landlord is not sufficient.

Moved *per* Plaintiff to enlarge the Term of the Demise. *Per Cur.* we cannot force the Defendant, unless he will consent: But made a Rule to shew Cause.

Let the Mortgagor confess a Judgment in Ejectment of all the Lands, &c. inserted in the Mortgage (which Judgment may be defeazanced upon performance of the Covenants of the Deed of Mortgage, by the same or such like Words as are contain'd in the Condition of a Bond for performance of the same Covenants, &c.) and then upon breach of Covenants you may take out Execution against the Lands—— And the Judgment will be good against all Leases that bear date after the Judgment, and also

Good In-  
struction:  
upon a  
Mortgag

**Com. Pleas.** against all Tenants at Will : But against Tenants whose Leases bear date before the Judgment, you cannot Sue out the Execution ; for such Lessees may be relieved by *Audita Querela*, as I suppose. *Sed quare de ceo* ; however they have a good Action of *Trespass* for entring upon their Possessions ; yet the Judgment will be of such force against them, as that the *Chancery* upon setting forth such Judgments by Bill, will force such Prior Lessees to attorn to the Mortgagee, &c. This was a Serjeant's advice.

Ancient  
Demesne  
pleaded.

If you move to plead Ancient Demesne, you must have an Affidavit that the Lands are so.

In Ejectment, Lease, Entry and Ouster is confessed *per* Landlord, who is admitted Defendant, and Judgment is confessed ; mov'd, That Execution may not go against the Tenants that had no Declarations delivered them, and Day given to shew Cause. *Mich.* 1689. Lord Chief Justice *Pollexfen* ; made absolute this Term, *Hill.* 1689.

Serving  
Ejectione  
firma,  
good.

A Rule made, That no serving of an *Ejectione firme* shall be good, but on the Wife or Tenant in possession. *Mich.* 1689.

*Per Pollexfen.*

Narr<sup>s</sup> to  
the Affi-  
davit.

Ordered, That the *Narr*' shall be filed to the Affidavit, or not good, *Mich.* 1690.

*Pollexfen.*

*Per*

*Per North*, If the Tenant in possession give a Warrant of Attorney to appear in Ejectment, he cannot afterwards take advantage of the not delivering of a Declaration—  
 In Judgment against the Casual Ejector, where the Tenant being gone away out of the House, lockt the Door and kept the Key. *Per Cur.* In this Case you should have Sealed a real Lease of Ejectment at the House. But upon Affidavit of serving the Tenant with a Declaration the first day of the Term, *Judic nisi p[ro]litaverit*, *Per Robinson* (in Ejectment in *London* or *Middlesex*.)

Com Pleas.

When to plead, and an appearance given.

If the Declaration delivered the first or second day of the Term, in *Easter* and *Michaelmas* Terms, the Tenant must either plead, or else the Plaintiff shall have Judgment.

Several Lessors.

Several Declarations.

Rule.

In Ejectment moved to put several Declarations in one, because all concerned the same Title. N. B. In these the Lessors were several persons. *Per Cur.* Where there are several Lessors you cannot joyn them; but if in several Declarations the Lessor and the Plaintiff be the same, and the Lands of the same Title, the Court will upon Motion order them to put all the Defendants in one Declaration. *Per Cur.* In all Ejectments in *London* and *Middlesex*, That no Rule shall be made against the Casual Ejector after the first four days, in the beginning of the two short Terms, and one Week of the other long Terms. But the Court Ordered, That in the Indorsment of Ejectments that it be inserted, That unless you appear the First day of, &c.

Dimit-

Com. Pleas.

No En-  
trance in  
Narr.  
Indorf-  
ment.

*Dimississet testis* 29 die Septemb<sup>r</sup> h<sup>er</sup>ens  
a 29 p<sup>re</sup>dice, no Day laid of the Plaintiffs  
Entrance. Referred to be Examined. *Adam's*  
Case, 2 Cro. Sinderf. Rep. 80.

The Indorfment was to appear the next  
*Hillary* Term, which includes all the Term ;  
for the Indorfment in *London* and *Middlesex*  
should be at the beginning of this present  
*Michaelmas* Term, &c. in at.

In Ejectione firme, *Cornelius* is writ in the  
Roll and the Record instead of *John* ; and  
moved to amend, but denied, *Hill. 1. Gul. &*  
*Mar. Pollexfen* 190.

## Error.

Writ of  
Error.

Where a VVrit of *Error* is brought after  
Verdict, he that brings it finds Sureties to  
prosecute it, unless it be in Ejectionment ; for  
there I think he does not ; [ See the Statute ]  
but where 'tis brought upon a Judgment by  
Confession or Default, in any case, he finds no  
Bail, and the Plaintiffs in the Judgment must  
at the Return of the VVrit of *Error*, get a  
Rule from the Clerk of the Errors, for the  
Prosecutor of the VVrit of *Error*, to cause  
the Record to be Transcribed into the  
*King's-Bench* within Eight days after Notice.  
VVhich Rule being served on him, or his At-  
torney, if the Record be not Transcribed at  
the eight Days end, the Clerk of the Errors  
signs you a *Non p<sup>ro</sup>*, but gives no Costs, and  
then you may take Execution on your Judg-  
ment : But if the Record be Transcribed,  
then

then you employ a *Kings-Bench* Man to look after it there; and if the Judgment be affirmed you have Execution out of the Court, and your increase of Costs taxed there, *Mich. 1679.*

In a VVrit of *Error* in Ejectment, no other Bail is required than the Plaintiffs own Recognition; for 'tis only to answer the Damage and the Mesne Profits. [The same Practice is in the *King's Bench*.] But this was adjudged in the *Common-Pleas* after several Motions for other Bail, and upon Reading the Statutes, whereby Bail is given. *Per Lord North*, If the Plaintiff in the VVrit of *Error* will not transcribe the Records.

If a VVrit of *Error* be brought upon a Judgment which requires Bail, and Bail be put into the VVrit of *Error*; and the Defendant in the VVrit of *Error* (who is the Plaintiff in the Judgment) brings an Action of Debt upon the Judgment, pending the VVrit of *Error*, as by the settled Practice now he may do) no Bail is required to the Action of Debt, but only an Appearance.

No Bail in a VVrit of *Error*, upon a Judgment by Inquiry. *Quare* the Statute of Bail in Error.

Upon a Motion, That a VVrit of *Error* was brought in Ejectment in the Casual Ejectors Name, without his knowledge, upon a Judgment against him; thereupon a *Silpersedeas quia erronee*, and let the Plaintiff in the VVrit of *Error* shew Cause why he should not pay Costs. N. B. The Casual Ejector



Com. Pleas. Ejector made an Affidavit, That he knew  
 nothing of the Writ of Error.

Executors,  
 and  
 Administrators.

Executors  
 and Admin-  
 istrators  
 may ap-  
 pear and  
 plead to a  
*Scire, Fieri*  
 & *Inquir'*.

Against an Executor or Administrator,  
 after you have a Judgment by default or  
 Confession, you can have no *ſd ſd de bonis*  
*ppriis*, nor Execution of his Body, till you  
 have first had a *ſd ſd de bonis Testatoris*,  
 Returned *Nulla bona*; after which there  
 must go out a Writ of *ſcd ſd & Inquir'*;  
 to which Writ, after it is executed by taking  
 an Inquisition of 10 l. Assets come to the  
 Defendants hands, and concluding that the  
 Defendant *debaſtavit* ſo much; he may  
 appear and plead *plene Adminiſtravit abſq*  
*hoc quod debaſtavit*, which amounts to no  
 more than a General *plene Adminiſtravit*,  
 which he might have pleaded the first time;  
 by which means 'tis very long e're Plaintiffs  
 in ſuch caſes can recover, and very charge-  
 able, and no Charge allowed after the  
*Scire, Fieri & Inquir'*, whatever Proceed-  
 ings happen to be ſubſequent: So that a  
 man had better loſe a ſmall Debt, than Sue  
 an Executor or Adminiſtrators who intends  
 to be troubleſome. This way of Proceeding  
 has not been long in practice: The old was,  
 That the Sheriffs Return a *Debaſtavit* on  
 the *ſd ſd*, and the Plaintiff had forthwith  
 Execution *de bonis ppriis*; but the Sheriff  
 being often ſued for ſuch Return, as falſe,  
 this

this way was thought on as better ; because here the **Debastavit** being found by the Jury, no Action lies against them ; besides, the Defendant might Traverse it, if he pleases.

*Vide Postea.*

Executor acknowledgeth Satisfaction on a **Satisfac**-  
judgment in Court ; the Secondary, after sight of the **Prob**at entred Satisfaction ; but you must bring your Letters of Administra-  
tion into Court.

Executors cannot declare before **Prob**at of the Will. *Per Lord North.*

Execution against Executors set aside, and Restitution had ; because the **Stire fac** against the Executors bore **Teste** before the Death of the Testator.

Upon a plene **Administravit** the Assets (if you go to Trial) must be proved and found before the Judge upon Evidence ; but if Judgment go by default against an Executor or Administrator, then the Assets must be proved before, and found by a Jury upon a **fi fa**, **Sci fa** and **Inquir**, sued out after the Sheriff had Returned **Pulla bona** upon the **Sci fa de bonis Testatoris**, which must in such a Case be sued out.

Lord North said, That if Assets be found on a **fi fa**, **Sci fa** and **Inquir**, the Sheriff must Return a **Debastavit** according to the value of the Assets found : And if the Defendant Traverses the **Debastavit**, the Issue is thereupon ; and tho' the Question at the Tryal is, Whether Assets, or no Assets ? (If Assets be found, yet the Jury shall find it a **Debastavit** ; ) And if the Sheriff Return

N. B.

Com. Pleas.

**M**a **Debastabit sur fieri fac de bono Testatoris** (which he will do, if the Plaintiff will give him security to save him harmless for it,) the Defendant cannot Traverse it, but if the **Debastabit sur Inquisition** taken by a Jury on a **fieri fac Sci & Inquir.** the Defendant may Traverse the **Debastabit**; and the Reason is, because if the Sheriff himself makes a false Return, the Defendant may have his Action against him, which he cannot have upon a **Debastabit** returned **p Inquisition**.

Force the  
Sheriff to  
return a  
*Debastavit*.

Upon a **Plene Administravit** pleaded, if the Jury finds Assets, the Sheriff upon view of the Verdict (shewn to him by Plaintiff) must upon a **fieri fac** against the Defendant **de bonis Testatoris** return a **Debastabit**; If he refuses and will only return a **Nulla bona**, you may (as I suppose) move the Court, and they will force him to it; **tamen quer'**.

### Exigents and Outlawries.

Superse-  
ding.

Reversing  
Outlawry.

If you are suing the Defendant to Outlawry, (which you cannot by **Accetiams**) if he thinks fit he may appear before he is Returned Outlawed, without Bail, be the Debt never so great, by superseding the Exigent and paying the Plaintiffs Costs, and after he is Returned, Outlawed, and the Exigent filed, in case the proceeding be by **clm fregit** (as the usual course is) he may reverse the Outlawry without Bail, he paying the Plaintiffs Costs as aforesaid, and his own

own Charges of the Reversal which are about 40 s. more, however all things considered, if a Defendant can be arrested, I take it to be the best Course to proceed by Arrest.

If you have Judgment against a Man that lurks in several Counties, in regard you cannot have Execution against him in more Counties than one at one time; the best way is to Sue him to Outlawry after Judgment, for then you may take out as many Writs of *Capias Utlagat* against him as you please, and this for small Charge; besides it saves you the charge of reviving the Judgment by *Scire fac* after the year; you have an *Exigent* immediately after the return of the *Ca. sa.* without an *Ar.* *Pluries* or Proclamation.

Moved to discharge the Defendant being a Feme Covert, and in Execution upon Outlawry after Judgment. N. B. The Defendant was Outlawed before Coverture: *Per North*, help your self as you can; and *per tot Cur*. we will not discharge her till the Moneys are paid. If a Feme Covert be in Custody upon Outlawry before Judgment, and the Husband will appear for her, then the Feme shall be discharged, *per tot Cur*.

Where the Defendant is Outlawed before Judgment (if it be by Special Process) he must upon his appearance put in Bail, to the value of the Debt and Damages, and not only for his appearance to the Action, 31 *Eliz. qd nota.* *Per Lord North*; If Attorneys would observe this, and Sue Special Writs,

Com. Pleas.

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Force the  
Sheriff to  
return a  
*Debastabit*.

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Superse-  
ding.

Reversing  
Outlawry.

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for then you may take out as many Writs of **Capias Utlagat** against him as you please, and this for small Charge; besides it saves you the charge of reviving the Judgment by **Scire fac** after the year; you have an **Exigent** immediately after the return of the **Ca. la.** without an **AR.** **Pluries** or Proclamation.

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Com. Pleas. Writs, it would prove a great advantage to their Clients.

Appearance.

Executors.

If the Defendant appear on the *Exigent*, he must pay all such Costs as the Prothonotary shall tax. — If a Co-executor be Outlawed, and one appear, you declare against both; and shall have Judgment against both; but Costs only against him that appeared.

If you Outlaw a Man that you know is a Prisoner in the *Fleet*, you shall have no Costs, and reverse the Outlawry at your own Charge, because as the practice is now, you should bring him to the Bar by *Hab Corp ad respondend'*, and charge him there by Prothonotary. Before a *Hab Corpus ad respondend'* was given by Stat. if a Prisoner of the *Fleet* would not appear you could not force him, and then you only was to Outlaw him.

Ex' fa' against a privileged person.

Moved *pro Quer'* against the Sheriff of *London*, for not returning an *Exigent* against the Defendant — Council *pro Dic* insisted, that the Defendant at the time of the return of the *Ex' fa* was privileged by the King, and had his privilege allowed and filed in their Office, and that they could not now return it, though the Privilege was now out, without breach of Privilege, because the *Ex' fa* was returnable in Privilege time; and must be returned as of that time; *Quer'*. That is now no matter, and *p Cur'* let the Sheriff make a return by *Wednesday* next on pain of 100 l.

Where

## Notes.

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Where more than one are Outlawed in one Writ, if an Attorney Reverse it as to all but as to one, he shall be forced to appear, but for one.

Com. Pleas.

Appear-  
ance on  
Outlawries.  
Reverse at  
Plaintiffs  
Charge.

Where the Defendant is well known, and lives near the Plaintiff, and is sufficient, and may be arrested; if the Plaintiff Outlaw him, he shall upon complaint by motion Reverse at his own Charge, *Quere postea*.

If the Plaintiff Sues in an Inferior Court, and after Outlaws the Defendant for the same Cause of Action, and the Defendant is thereon taken, he shall not pay the Costs of the Inferior Court.

Not pay  
Costs of an  
Inferior  
Court.

A Feme Covert taken upon an *Utl*, shall be discharged upon bringing a *Superseedeas*, and entering only an Appearance.

Feme Co-  
vert.

*Quere*, If Outlawry was pleaded in Bar to a Trover, for in an Action it may be pleaded in Bar, tho' the things are not certain till the Action be stated; but in *Quantum meruit* it is doubtful, whether it may be pleaded in Bar or no, the price being incertain, 4 Leon. 197 & 205. *Matthew and Pit, Webb versus Moore*. 1 W. & M. Pollexfen L. C. J.

Where  
*Utl* may  
be pleaded.

Moved by Sergeant Levin, That the Outlawry might be reversed at the Plaintiffs Charge, the Defendant being every day in the Plaintiffs Company, they being both Captains; but denied, and Ordered an Action of the Case to be brought against the Plaintiff, if the Defendant thought convenient.

An Action  
of the Case  
ordered for  
Outlawing  
a person  
well  
known.

After you have taken out a Special *Capias* *Utl*, for which you pay with Seal 2 s. 7 d.

Special  
*Cap. Utl*.

E e

and

**Com. Pleas** and for Warrant thereon 5 s. and the Sheriffs for taking an Inquisition of the Goods, Lands and Chattles of the Defendants 1 l. 13 s. the Inquisition is to be returned into the *Exchequer*.

Upon a *Supersedeas* to an *Exigent*, your appearance is but at the return of the *Exigent*, and you are not bound to receive a Declaration before then, *M. 7. G. 3. Normanfell versus Biggerstaff.*

### Habeas Corpus.

*Habeas Corpus and Distingas sur Capi. on an Attachment.*

**A**LL Writs of *Habeas Corpus* and *Distingas* after *Capi* returned on Attachment of Privilege, are made by us, and signed by the Prothonotary, who signed the Attachment; but all such Writs upon other Proceſs are made and signed by the Philazer, who made out the *Cap.*

*Proceedings after removal per Habeas Corpus.*

When a Cause is removed by *Habeas Corpus* out of an Inferior Court, at the return of the *Habeas Corpus*, the Plaintiff must give Rule for the Defendant to put in Special Bail within 4 days after notice, which if the Defendant fails to do, having been served with the Rule, you may have *Procedendo*. If Bail be put in, the Plaintiff hath 20 days to except against it, if he see Cause, within which time he must have notice of it, and if he makes no Exception within the 20 days end, it stands absolutely, and the Plaintiff must File his Original, and declare within 2 Terms after the Bail put, or else the Bail is not liable: If the Plaintiff

except

except against the Bail, he must have a Rule granted and signed by the Judge, who took the Bail to serve the Defendants Attorney with, that unless better Bail be put in by a day, the Plaintiff shall have a **Procedendo**: To remove Causes before Judgment out of Inferior Courts not of Record, you have these 3 Writs made by the Curfitor, A **Recordare** to remove a Plaint out of the County Court; A **Habeas Corpus** to remove a Cause which is there by *Justices*; and an **Arceat** to remove a Plaint out of the Hundred Court; and each Writ expresseth which party 'tis that brings it, whether Plaintiff or Defendant. The **Recordare** and **Arceat** in all Actions but Replevin, are to be filed by the Prothonotary; and in Replevin with the Philazer, when the Plaintiff brings the Writ which is seldom; but in Replevin he must see if the Defendant hath appeared, if not, he must Sue out a **Habeas Corpus** from the Philazer, and with the Sheriff return Issues: then you have a **Distingas**, and so **Alias & Plures Distingas ad infinitum** till he does appear, and after appearance you declare and proceed as in Causes after Arrest. If the Defendant brings the Writ in any other Action but Replevin, he must be sure to File it, and enter his appearance with the Prothonotary with all possible speed, to prevent a **Procedendo**. After the Writ filed, and appearance entered you give Rule with the Philazer for the Plaintiff to declare, and if he refuses when the Rule is out, you enter a **Non pros**. Mr. Townsend was of Opin-

Com. Peas.  
Causes re-  
moved  
out of the  
County or  
Hundred  
Court.



See Statute  
about New  
prof.

nion, No Costs ought to be given on such **Non Pros**; but Sir *Thomas Robinson* did once tax me 40 s. 8 d. on one, tho' I question whether allowable by the Statute, I think in *King Car.* 2 d. Reign, in Replevin if the Plaintiff (viz.) he whose Goods were taken bring the Writ, and after filing it with the Philazer, he takes out a **Pone** as above, to force the Avowant to appear, and after appearance declares, then the other Avows, &c. proceeding till Issue or Demurrer, but if the Avowant, (viz.) he who took the Cattle bring the Writ, in Case after 'tis filed with the Philazer, and the Rule to declare entred with him be out, no Declaration comes in, the Avowant has a **Returnd Habend** made by the Philazer; the Proceedings whereof you will find in the *Compleat Attorney*.

Judgments  
removed  
out of the  
County or  
Hundred  
Court.

To remove after Judgment out of Inferior Courts not of Record, you must bring a Writ of false Judgment, and when 'tis returned, File it with the Prothonotary, and enter the same with the Errors assigned on a Roll; then deliver a Copy to the Attorney on the other side, who will be sure to appear there-to, in order to obtain the Fruits of his Judgment; then he that had the Judgment below (but is the Defendant in this Writ) must get a Serjeant to move on the Record, maintaining the Judgment against the Errors assigned, and praying a Writ **de Executone Judicij**, which if granted, and then the Judgment affirmed; yet he recovers no Costs, nor does the Plaintiff in the Writ re-  
cover

cover any, if he appears to reverse the Judgment. I know not what Fees Sheriffs and Country Clerks usually take for removals on *Refalō*, *Done*, and Writs of false Judgment; but I have paid upon removal by *Accedas* out of an Hundred Court as follows, (*viz.*) To the Cursitor *pro Accedas* in Replevin 2 s. 6 d. in all other Actions 9 s. 2 d. for the Sheriffs Warrant thereon to the Steward 2 s. paid the Steward for returning the Plaint 6 s. 8 d. four free Suitors 1 s. apiece, to the Bayliff 2 s. and to the Sheriff for returning the Writ 2 s. the like Fees on a Writ of false Judgment.

Where the Body is not in Prison by supposition of Law a *Habeas Corpus* is not the proper means to remove the Cause, but a *Certiorari*.

A *Habeas ad satisfaciendū* (against a Man already in the *Fleet*) delivered to the Warden of the *Fleet*, is sufficient to charge him in Execution.

Upon a *Habeas Corpus* out of the *Common Pleas*, if the Process of the *King's Bench* be returned, the *Common-Pleas* cannot take Bail to the Action in the *King's-Bench*; but they must bring a *Hab Corp* out of the *King's-Bench*, and thereupon take Bail in the *King's-Bench*.



Infants  
Plaintiffs  
and Defen-  
dants, and  
costs of ad-  
mittance.

**I**F an Infant Sues he does it *p prochein* *amp*; if he defend, by Guardian; and to either he may be admitted by the Court, in Term time, or by any Judge at his Chamber then, or in Vacation (the Infant being present) or else by Commissioners by virtue of a *Dedimus* from the Curfitor, which Costs you 17 s. 6 d. which *Dedimus* when returned must be filed with the Curfitor, who makes you a *Mittimus* and Transcript thereof, which you enter on the Roll. Also 'tis said he may be admitted by a Judge at Affizes.

Admit-  
tance of a  
*Prochein*  
*Amie*.  
Warrant  
of Attor-  
ney.

'Tis time enough to admit *Prochein* *Amie*, or Guardian at any time before Declaration be delivered.

If an Infant give a Warrant of Attorney to confess Judgment, tho' it be entred up after he is at age, it is void.

**Judic & Executo.**

To pro-  
ceed on  
Old Judg-  
ments by  
Action, or  
*Sci. Fac.*

**W**hen a Judgment is above a year and a day old, and you would proceed thereon, you have two ways, an Action, and a *Sci. Fac.*: If the Debt be small, the former I take to be the best course; for there you recover Costs, in the other none. And 'tis a General Rule, in all Cases on *Sci. Fac.* you recover no Costs, be the Pleadings and Proceedings thereon never so long. If you go by *Scire fac.*, and the Defendant in Judgment

Judgment be living, notwithstanding the Plaintiff be dead, one *Nichil* serves turn; if the Defendant be dead there must be two *Nichils* against his Executor or Administrator; but whether living or dead, one *Scire feci* Return'd serves, and an Entry must be made of the *VVrit* and Returns on a Roll, concluding with an *heat Executio*: But this Entry is not signed with the Prothonotary, only he has 2 s. for Entering it. If the Judgment have lain above 10 years before you can have a *Scd fa*, you must move in the Treasury; whereupon the Court upon granting it gives you Orders, to give the Defendant personal Notice, if possible.

The Prothonotary seldom signs Judgments by *Nil dicit* in Country Causes in Term time; and when Judgment is signed in Term time, or after the Term, any Judge will Order it to be set aside on payment of Costs of signing, if you offer to plead an Issuable Plea, and taking notice of Tryal.

Satisfactions may be acknowledged, not only in Court in Term time, but at a Judges Chamber in Vacation; as also all Judgments on *Posteas*, Demurrers, Writs of *Inquiry*, *Elegit*, Partition, &c. after the Clerk of the Judgments have drawn the Judgment thereon; as also Return of Writs of *Seisin in Dower* and *Waste*, &c. are all Entred by the Clerks of the Court without Fees, every Vacation, or twice a year at least, on such days as the Prothonotary shall please to call them together; and for their pains the Pro-

Com. Pleas. • thonotary only gives them a Dinner and Supper, and the liberty of Sitting with them at Table covered.

Executions of several Defendants must be against all. Execution must be against all that are in the Record ; if there be three Defendants, it cannot be against one or two, but against all.

Execution set aside upon undue obtaining of judgments. After Execution of a *ſd* *ſd*, upon Affidavit of the undue obtaining of the Judgment and Motion to set the Judgment aside. *Per Cur.* It was referred to Mr. ——— to examine, &c. and all things in the mean time to stand in *ſtatu quo*. *Mich.* 1679.

Goods restored, levied on a *ſi. Fa.* after *ſuperſedeas* and an Attachment against the Sheriff. An Affidavit made by two, which worded it thus ; *A.* and *B.* do joyntly and ſeverally make Oath, That Goods were levied upon a *ſd* *ſd*, and ſold after a *Superſedeas* brought, and notice given thereof. Motion to pray an Attachment against the Sheriff, and Reſtitution of the Goods. *Per Cur.* An Attachment granted, if not Reſtitution within three Weeks.

*N. B.* A Horſe that was levied upon this *ſieri ſac*, died after the *Superſedeas* brought. And *Per Cur.* The Plaintiff muſt make reſtitution of him in value ; and the Plaintiff could not have any Fees or Charge allowed after notice of the *Superſedeas*, *Mich.* 1679.

To ſtay Judgment. To ſtay Judgment, becauſe no notice of Tryal. *Per Cur. Conceſſ.* unleſs Cauſe be ſhewn by the Plaintiff to the contrary.



It was said *per Cur*, That the Plaintiff, because the Defendant died betwixt the Verdict and the Judgment, would lose his Judgment if he signed it not in two Terms by Act of Parliament. *Quære* this, 17 Car. 2. *Chandler versus Trot*, in *Trin.* 1679, 10. 368. *Quære* the Record — A Rule in this Cause was made to hear Council on both sides on the Lord Mayor's Day.

Com.Pleas.  
Defendant died betwixt Verdict and Judgment.

To set aside a Judgment, because no Copy of the Issue was delivered him, *scilicet* where Copy of Issue was delivered, but no Notice of Tryal, *scilicet* where the Plaintiff tried the Cause, where the Defendant Demurrs to the Declaration.

To set aside Judgment.

In all these Cases the Court orders a Reference to the Prothonotary, and in the mean time all things to be in *Statu quo*.

Execution set aside, and Writ of Restitution awarded, because a *Test' fieri fac* was sued out against the Defendant, before any *fieri fac* was returned with *Nulla Bona* in the proper County : But the Judgment was to stand good *p' toe Cur*.

Execution set aside upon a *Test. fieri fac*.

A Warrant of Attorney to confess a Judgment is good but for a Year next ensuing the date thereof ; and if you enter Judgment on such a Warrant ( after the year expired ) without first moving the Court, and a Rule thereupon, the Court will set the Judgment aside.

A Warrant of Attorney but for a year next after the Date.

Where a *Denire fac* is returnable, the last Return within the Term you cannot have Execution ( on a Verdict ) the same Term N. B.

Execution when had.

*Per*

**Com. Pleas.** *Per Defendētem* to supersede an Execution irregularly taken out against one of the Defendants alone, where the Judgment was jointly against two, *Per Robinson*, the Plaintiff must make his **Ca Sa** against both, but may thereon take which he will; the like of **Tell' Ca Sa**.

**Supersede**  
an Execu-  
tion against  
one where  
it should  
have been  
against  
two.

**Arbitri-**  
**ment.**

**Judgment**  
how re-  
lates.

Judgment stayed, because Plaintiff went to Tryal whilst the Cause was under Arbitriment.

Judgment by Confession relates to the first day of the Term, and your Execution may be then testified — *per Lord North*.

**Entry Ju-**  
**dic' on the**  
**Roll.**

*Per Cur'.* Upon **Hab fac poss** entred on the Roll, you need no **Scire fac** to revive it; and simile on a **Ca Sa**, but then upon the Roll you must continue it from Term to Term. *Vide M. D. Presidents dec'* in Entry *Moyle fo. 20.*

**Part by**  
**Fieri fac'**  
in a **Ca'**  
**Sa'.**

**Satisfac-**  
**tion.**

If you levy part of a Debt on a **fieri fac**, you must make an Entry of the **fieri fac**, and the Return thereof, and award a **Ca Sa** for the residue.

*Per North*, you may bring a **Scire fac** to make the Plaintiff acknowledge satisfaction upon Judgment when the Money is paid. *Per Robinson* upon a Suggestion in the Body of the **Scire fac** that the Money is paid, tho' *Townsend* hath denied it.

**False Judg-**  
**ment.**

In proceeding on a Writ of false Judgment, when the Exceptions are entred upon the Roll, you may have the Record read, and the Serjeant may be heard to it, when he will, for 'tis never set down in the Court Book.

To

## Notes.

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To move to sign Judgment must be in the *Com Pleas* Court, and not in the Treasury, *Trin. 1690*  
*7 W. & M. Lord Pollexfen.*

*Motion to  
sign Judg-  
ment where  
to be*

### Bye Inquiry?

Upon the Execution of an Inquiry with-  
 out notice given to the Defendant, the Court  
 set aside the Inquiry, and ordered the Plain-  
 tiff to bring a new Writ, and give the De-  
 fendant timely notice——But there must  
 be an Affidavit that no notice was given; but  
*Quere* if after Judgment be signed on the  
 Writ of Enquiry it can be.

*Sur breve  
de Inquir'  
notice to  
be given.*

An Inquiry was executed by Suprize con-  
 trary to promise. *Per Cur.* all proceedings  
 shall be stopd, and notice to be given of  
 this Motion, *Mich. 1679.*

*Upon sur-  
prize.*

To stay signing Judgment on an Inquiry.  
*Per Cur. concess.* till the Plaintiff moves to  
 the contrary.

*Signing  
Judgment  
sur Inquiry  
stopd.*

To set aside an Inquiry where the Jury  
 found 10 *l.* Damages where 40 *s.* was but  
 due, 25 *Octob. 1679.*

*10 *l.* found  
where 40 *s.*  
but due.*

To set aside Judgment upon an Inquiry  
 which was executed after that the Defendant  
 had delivered his Plea. Ordered to shew  
 Cause why the Defendant should not be ad-  
 mitted to plead,

*Plea ten-  
dered.*

To set aside an Inquiry, because no De-  
 claration was delivered to the Defendant af-  
 ter his appearance, referred to be exa-  
 mined.

*No Decla-  
ration de-  
livered.*

To

Com Pleas.

To stop an  
Inquiry up-  
on Surprise  
and Blank  
Narr.

To stay Filing an Inquiry, because the Declaration was delivered with Blanks and was never filled up, and the Inquiry executed upon Suprize, whilst the Cause was under a reference, referred to be examined, and all proceedings to stay till moved by the Plaintiff, *Hobbs versus Little, pro Wright prox<sup>o</sup> Amic<sup>o</sup>.*

Second  
Writ of  
Inquiry.

A second Writ of Inquiry cannot be executed in the same Cause without leave of the Court first had, *Per Cur.*

No chal-  
lenge to a  
Juaz on br'  
Inquiry in  
Wast.  
200 l.

Motion to set aside an Inquiry. *Per Cur.* No challenge can be made to the Jury Impannelled on a Writ of Inquiry.

Where a Writ of Inquiry in an Action of Wast duly executed, and 200 l. Damages is Sworn unto, and the Jury found but 100 l. and so Judgment treble value 300 l. Moved to set it aside, and denied *per tot<sup>o</sup> Cur<sup>o</sup>.* *Mich. 1689. Lord Chief Justice Pollexfen.*

Ill notice.

A Writ of Inquiry set aside, because notice was given only in *Dothton*, and doth not set out what House, *Mich. 1689. Lord Pollexfen.*

How to ex-  
e ure a  
Writ of  
Inquiry.

When your Writ of Inquiry is made, you must go to the Prothonotary to sign it, for which you pay 2 s. and at the Seal 7 d. and then carry it to the Sheriff two days before you intend to sit, and tell him where you have given notice, that it shall be executed, and he will cause a Jury to be returned, and all their Fees in *Middlesex* comes to 1 l. 10 s. 4 d. then 2 or 3 days after call for it at the Sheriffs Office, and he will have it returned for

for you, and then four days after the Return Com. Pleas. carry it to the Prothonotary, and he will sign Costs, for which you pay 5 s. 4 d. then carry it to the Clerk of the Judgments, and he will make you any Execution that you please, and you pay him for the *hze de Inquir'* 1 s. 8 d.

Note, That in your notice, you must express your place and time certain, or else it is not good notice, and it must be as long as notice of Tryals are. No Costs for not executing a Writ of Inquiry ordered to be before the Lord Chief Justice, *Trin.* 1690. *Pollexfen.* What notice to give

### Original.

**Y**our New Original to Warrant Judgment comes in soon enough, so it be returnable any time before Judgment signed, and 'tis best to have it of that same Term, if your Impar lance be not entred. When to File New Original.

The Cursitor will make your Original returnable the first, or any other Return of the Term before you bespeak it, so you bring your Note to him on or before the 7th day within the subsequent Term; for instance, if you Bring your Note on or before the 29th of *October*, he will make it *Craftin' Trin'*, or any other Return that Term; but he cannot go further than the preeding Term, without Warrant from the Master of the Rolls, which is often had upon a Petition to him; and Affidavit of Time to bespeak your Originals.  
m flay-



**Com. Pleas.** mislaying your Instructions, or that you could not get the Specialty to perfect the **Alias die**, or other reasonable Excuse; and for the Warrant you pay 5 s. 6 d.

**Originals.**  
to keep  
**Debts with-**  
**in Statut.**

If the Defendant pleads the Statute of Limitations, and you have within 6 years sued him to an Outlawry in a **Clausum fregit**, or have taken out a **Cim freg** or **Cap** against him: Such proceedings will do you no good against the Plea; for a **Cim fregit** is no Original to your Action, but your Original ought to be Special, such as agrees with your Declaration; therefore, besides your Process to Outlawry, at such time as you begin the same; 'tis best likewise to File a New Original.

**A Standing**  
**Rule when**  
**Originals.**  
**where not.**

Where the appearance of the Defendant is by Compulsion and Process of Law, there must be an Original sued out by the Plaintiff; but where a Judgment and a Release of Errors is given by the Defendant, there needs no Original to Warrant the Judgment: Lord North, and Lord Chancellor agreed thereto. **Per to Cur'** so is the practice of the *King's Bench*: Lord North spoke this in Court, that the Attorneys might take notice of it — 1679.

IF you would plead in Abatement, or the Plea in  
 Priviledge of any other Court as a Pri- Abate-  
 viledged person ; you must not accept a ment, &c.  
 General Imparlance, but must either plead  
 the same Term, or else crave a Special Im-  
 parlance, which the Plaintiff upon Request  
 is bound to, if you give him 2 s. for Enttring  
 of it, *Mich. 1679.*

The Defendant got a Rule in the Trea- To amend  
 sury to amend his Plea, and thereupon Plea and  
 pleaded a New Plea, which the Court would plead *de*  
 not allow ; for a Rule is no Authority to *novvo*, not  
 plead *de novo*, 28 *Oct. 1679.* But because good, ex-  
 thereupon a Title was in question, the Court cept Title  
 gave the Defendant leave to plead a Plea, be in que-  
 N. B. sion.

The Defendant had paid the Money upon For Defen-  
 the Judgment ; (as appears by Affidavit) but dant to  
 the Plaintiff in his Life-time had not entred plead to a  
 Satisfaction on Record thereof. His Execu- *Scire fac.*  
 tors sue out a *Scd fā* against the Defen-  
 dant ; the Sheriff did not warn the Defen-  
 dant (who thereupon would have pleaded  
 his payment) and so Judgment by default, and  
 to stay all proceedings, and the Plaintiff to  
 shew Cause why the Judgment should not  
 be set aside.

Moved to alter the Plea, which being en- Plea al-  
 tred, and the Roll being brought into Court. tred.  
*Per Cur.* We cannot help you.

The

Com. Pleas.

Before  
Judgment  
signed.

The Prothonotary must receive a Plea, to be left in the Office (tho' the Rule out) at any time before Judgment signed; and so adjudged *per Cur.* for a standing Rule, but *Wyrley è contra*, and said, That to his knowledge it had been deny'd after that the Rule had been out four days.

Where  
Serjeants  
Hand is  
requisite.

No Serjeants Hand is necessary to a General Deins age, p minas, son assault de mesm, plene administravit, duress, *per Wyrley*; *Robinson è contra quod deins age.*

R spond  
Ousier.

After a Respondent Ousier upon a Rule given, the Defendant must plead forthwith, or else the Prothonotary will sign Judgment. *Quare*, What time is allowed by the Rule.

Abatement

The Defendant after a General Imparlance pleaded in Abatement of the Writ, and thereto the Plaintiff demurred. Lord North, When you plead in Abatement of the VVrit, Judgment quod Respondent ouster.

Courts  
leave to  
plead to  
Original  
Action.

Upon Suit on a Bail-Bond: If you have the Courts leave to plead in Chief (*id est*) to the principal Action, you must plead no Dilatory plea; but upon paying Costs, in such case the Court gave leave to plead a Popish Recusant.

Priviledge  
of Peetrage.

In Case of a Peer, unless he be party to the Suit, (and then he must demand it) Priviledge of his Peerage cannot be taken notice of by the Judges.

## Notes.

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If the Tenant of a Peer be party to a Suit, the Peer must bring his Writ of *Parliament* to the Assizes or place of Trial. *Per Cur.* It was so held in the Case of my Lord *Huntington, & al.*

Com. Pleas.

Tenant of  
a Peer  
brings his  
Writ to  
the Assizes.

## Prohibition.

*Ketle* versus *Charlett*, Lessee of *Corbett*, Impropiator: A Prohibition to the Court of *Hereford* moved for by *Charlett*, for not allowing a Plea pleaded there. Order to shew Cause within three Weeks, upon Notice to *Ketle* and his Proctor both.

*Per J. North*; A *Modus* is good against a Vicar by an Impropiator; but not against an Impropiator by a Vicar.

For a Prohibition, where a Parish-Clerk sues for his Wages against the Parishioners: The Parishioners suggest a Custom for them to Choose a Parish-Clerk, and that they had Chose one accordingly; and that the Plaintiff in *Court-Christian* was put into the place by the Parson, and not by them. *Per Cur. Concess.* nisi causa within a Fortnight, and stay proceedings in the mean time.

If you move for a Prohibition, because the *Spiritual Court* will not allow your Plea, you must bring into Court a Copy of the Libel and of the Plea you offered to plead there, and your Suggestion.

A Prohibition.

Prohibition  
on suggestion.

To have  
Prohibition  
on how  
to move.

F f

Prisona:

## Special

## Prisoners.

Prisoner  
discharged

A Judge at his Chamber may, upon Appearance given, discharge one then a Prisoner in the *Fleet*, and formerly discharged by Act of Parliament, for the Relief of poor Prisoners. *Quære*, If the Prisoner may be discharged, if he be in Custody at the Suit of one who he did Summons before, according to the said Act.

Surrender  
in discharge  
of Bail.

One rendered himself in discharge of his Bail after Judgment, Committed to the Warden of the *Fleet*. The Plaintiff is to make his Election in eight days, whether he will have his Body or his Goods. *Per Lord North*, 1679.

Act of In-  
dempnity.

If a Prisoner be discharged by the late Act of Parliament, the Gaoler cannot detain him for his Chamber-Rent. *Per Lord North*, This Act was intended only for them that were in strict Custody, 29 May 1678. and had been so for Six Months before.

A Prisoner  
appear in  
*propria*  
*persona*.

A Prisoner being brought by the Warden of the *Fleet* to the Bar by *Habeas Corpus*, and being ask'd, what Attorney should appear for him to 12 *Paris* against him; said, *He appeared in person*, and it was Recorded; and *per Cur.* a Rule was made *nisi plitaſit* in 8 Days *Judicium ꝓ defalc*; And the Court said, the Plaintiff might then charge him with Executions.

If



If a Prisoner, discharged by the Act, be arrested for any Action whereof he was discharged, he shall not be forced to put in Bail; but may Summons the Plaintiff before a Judge at his Chamber, who will upon sight of the Duplicat order an Appearance to be taken, and discharge the Prisoner out of Custody, and therefore you need not move the Court.

Com. Pleas.

Prisoner  
discharged  
per Act  
shall only  
appear.

When a Bail-Bond is sued, if the Defendant puts in Bail above before Plea pleaded to the Bail-Bond, then upon paying the Costs, and discharging the Amerciaments, the proceedings upon the Bail-Bond shall be stopped, and the Plaintiff shall go on duly on the principal Arrest.

Bail and  
Bail Bond.

If a man renders himself in discharge of his Bail, and time being given to the Plaintiff to pray him in Execution; if the Prisoner, before he is prayed in Execution, Removes himself to the *Kings-Bench*, he shall not be discharged in this Court till he is prayed in Execution. N. B. The Plaintiff may have an *Habeas corpus* to the *Kings-Bench*, to bring him to the Bar of this Court, and there he may be prayed in Execution.

Surrender  
in discharge  
of Bail.

Moved to Charge Prisoners in the *Fleet* (Committed by the Court, and Ordered to be prosecuted per Plaintiffs in the *Kings-Bench* on a Riot) with an Action for taking the Plaintiffs Goods, and denied *Mich. 1689. Pollerfen.*

F f 2

Shall

Com. Pleas.

Poor Pri-  
soners  
goods.

Shall not  
pay *pro*  
*Narr*.

Shall seize the Household-Goods of a Prisoner discharged by the Act of Parliament, on any Judgment obtained before his Discharge, or given by the Prisoner according to the Act, *Mich. 7 G. 3.*

A Prisoner discharged *per Act*, &c. shall not pay for Copy of the Pleadings; but shall be admitted in *forma pauperis* to defend.

## Quare Impedit.

Enter a  
Disconti-  
nuance  
where all  
are agreed.

Costs  
where al-  
lowed.

How Jury  
is to find  
on a *Quere*  
*Impedit*.

**I**N *Quare Impedit*, where all parties were agreed, the Court advised the Plaintiff to enter a Discontinuance without Costs; and not that the Defendant should enter a *Non p̄s*, because that would disparage the Plaintiffs Title.

No Costs on a *Non p̄s* in *Quare Impedit*; but Costs on a Discontinuance therein, which was query'd *per Lord North*, and *Q. de ceo*—1679.

On a *Quare Impedit* tryed at Bar; N. B. If the Jury find for the Plaintiff, they must also find of whom, and upon whose Presentation the Church is full, and how long since it became void; because in the Judgment the Plaintiff shall recover Damages half the value of Half a year. *Vide 2d Judgm. 183. 17.*

There

## Notes.

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There must be two Rules in a **Quare Impedit** to plead, as I think, both by Motion of Court, before you can sign Judgment.

Comp. pleas.

Two Rules before you can sign Judgment.

Nonsuit in a **Quare Impedit** is fatal.

In a **Quare Impedit**, the Incumbent was told (by an Officer) as he was coming out of the Church on a Sunday, That he had the Sheriffs VVarrant to Summon him to appear on a **Quare Impedit**; and moved *per* Plaintiff, That if this Return should be avoided, then they must have a New Writ, and if it should not be within six Months, then he should lose the Action. Ordered *per Cur.* That the Summons should stand.

Sum. die Sabbati, good.

## Record.

**I**F any Executor or Administrator plead Judgments obtained against him or his Testator or Intestate in any other Court of Record, and the Plaintiff reply **Plu tiel Record**; the Defendant to prove his Issue before the next Term must sue out a **Certiorari** from the Cursitor; and when the Record is returned thereon, must bring such Return to the Cursitor, who files it, and helps you to a **Mittimus** and Transcript thereof, to send the Record into the *Common-Pleas*.

Records certified from other Courts.

Com. Pleas.

*Ne recipiatur, and shall have Costs.*

*Per Proviso.*

Removing  
a Record  
on a Writ  
of Error.

*Per Lord North*, If the Defendant enter a **Ne recipiatur** of the Record at the Affizes, he shall have Costs for his Attendance. *Quære*, If so in *London* and *Middlesex*.

If a Cause be carried down by *Proviso*, the Plaintiff cannot withdraw the Record; because in such case the Record put in by him is afterwards the Record of the Defendant.

If a VVrit of Error (in *Banco Regis*) upon a Record in *Communi Banco* be quashed, the **Mittitur** must be struck out of the Record by Rule of Court, upon Motion. *Per Cur.* If the Record be removed, then if you have need of the Roll you must bring a VVrit of Error upon the Record **quod coram nobis residet**. *Quære* the Form of this VVrit, *Stiles Rep.* 47c. 3, &c.

### Recovery and Fines.

The VVrit of *Seisin*, *Entry* and *Summons*, See Title **Sherriffs**.

Appear-  
ance of  
Tenant  
and Vou-  
chee.

If in your Recovery the Tenant at first appear by Attorney, altho' the Vouchee appears by Summons, yet there must not be **Alias put patet**. N. B. The difference when the Tenant appears first in person, and then at the Return of the Summons appear by VVarrant of Attorney; and when the Tenant appears at first by an Attorney: *Vide* proceedings, *Bagnal versus Jones*, Mich. 30 Car. 2. Rot. 257.

**Dedimus**

**Dedimus** out of *Chancery*, **VVarrants** of *Com. Pleas.* Attorney for the Tenants or Vouchees, are either by **VVarrant**, or taken before a Judge. *Dedimus* *to appear.* **VVherever** there is a **VVarrant** of Attorney in a Recovery by **Dedimus**, there must be a **Mittimus** and Transcript; because the **Dedimus potestatem de Ware Attorn recipiend'** is Returnable into the *Chancery*, therefore not cognizable by the Justices of the *Common-Pleas*, *Compleat Attorn*, 144.

Several Titles ought not to be joyned in one Fine *Per tot. Cur.* *Several Titles.*

A Fine sued out by Fraud; here it was said, That Interrogatories can be administered only as to the Misdemeanor, and that as to the Fine they must bring a **VVrit** of *Error.* *Fine per Fraud.*

A Motion to mend a Fine where the Chirographer had made **Heredibus ipsius** the Conuzor, where it was in the *Præcipe* and Concord taken before the Commissioners **Heredibus suis**, and denied, *Mich. 1 G. & M. Pollexfen.* *Fine to be amended.*

If a **VVrit** of *Covenant* be brought against Two, and one acknowledge before a Judge and the other by a **Dedimus**, or before another Judge, you cannot proceed upon these two Acknowledgments. *B. G. 29. Quære.*

If the Husband sets the *VVives* hand to a Fine, and she doth after acknowledge it, it is good, *Darby versus Naylor, Mich. 6 W. & M. 1694.*





## Special

## Release.

Damages  
released.

If Damages be given upon several Issues, the Plaintiff may remit the Damages as to one Issue. Where Damages are entire, if the Plaintiff releaseth the whole, he thereby releaseth the Action also.

Regul<sup>r</sup>.

Rule pe-  
remptory  
in real  
Actions.

In all Real Actions, after your Common Rule to plead is out, before you can have Judgment you must move by Council for a Peremptory Rule.

Rule dis-  
charged  
of course.

If a Rule be made, That Cause shall be shewn such a day, and it be accordingly, the Rule is discharged of course.

Regula,  
That if af-  
ter two  
Summons  
not appear,  
so proceed  
ex parte.

Ordered in *Michaelmas* Term 1679. *per Cur.* That all the Prothonotaries were desired to take notice, that upon Reference by Rule of Court to any of the Prothonotaries, if after two Summons and Affidavit made thereof, the party Summoned would not appear, they should proceed *ex parte*.

Regula,  
Affidavit.  
Release.

Motion to make a Rule made at the Assizes, a Rule of Court *allocatur*.

If the Defendant deny he gave the Plaintiff any Release, *per Cur.* the Defendant must purge himself by Affidavit.

Notice.

If you swear Notice, your Affidavits must name the Parties to whom it was given.

## Notes.

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It is said, That if a Rule be made with a *Nisi causa*, and no Cause is shewn upon that Rule, you must make your Rule absolute. Com.Pleas. Nisi Causa  
The Secondary must certifie on the Rule, That no Cause is shewn, and upon that Rule move to make it absolute.

Where the Defendant goes out of Court *sine die*, by reason of a Disability of the Plaintiff, when the Disability is removed, the Plaintiff must Sue out a Resummons against the Defendant, to bring him into Court again. Disability of the Plaintiff.

When you move against a Rule granted on an Affidavit, you must have a Copy of such Affidavit made and signed by the Secondary, with whom it is filed, or else the Court will not hear the Motion. To alter a Rule.

In a Real Action you cannot sign Judgment, without a Special Rule of Court. Rule in Real Actions.

Upon a Nonsuit in either of the Courts of *Westminster*, Oath being made of the Costs taxed and demanded, the Court will not let the Plaintiff proceed in a New Action for the same Cause, till he hath paid the Defendant the Costs of the Nonsuit. Nonsuit.

Rules to plead cannot be given before the Declaration is delivered, or any Appearance for the Defendant be actually entred. Rules to plead.

Where a Rule of an Affize is made in Action of *Trover*, That no Costs shall be made to either, they tax Costs and get Judgment. Ordered, That Judgment be stayed till Cause be shewn on the other side, *Mich. 1689. Pollexfen.* Rule of Affize.

Com. Pleas. If Rule be not drawn up within four days  
 To be drawn up in 4 days. after it is pronounced, it is discharged of course.

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### Sheriffs.

**A Superfed.** **W**Here the Sheriff hath a Bail-bond to the Sheriff upon an Affidavit of the Agreement of the parties, a Special **Superfedas** has been granted to discharge the Bail from the Sheriff. *Quære* the Form of this **Superfedas**.  
**Attach-ment** Moved for an Attachment against the Sheriff and Under-sheriff, (for denying to make a Warrant upon an Execution delivered them) to be directed to the Coroners. Granted, to be sued without further Motion.

**Restitution** Upon a Writ of Restitution, if the Sheriff hath sold the Goods, he must restore the Money.

**Fees.** *North, per Stat. 29 Eliz. cap. 4.* doth not give the Sheriff leave to hold his Fees out of the Money levied; but he may take them before-hand.

**Cepi corp.** If a Sheriff returns **Cepi Corp**, whether he may at any time after take up his Prisoner for his own Indemnity: And *per tot<sup>us</sup> Cur.*

**Ret. Fi. fa. per Vic.** The Sheriff upon a **ſd ſd** may Return, **Qu nulla persona venit ad monstrandum mihi bona**, and it is a good Return, and he shall not

not be forced to execute a second *fi fa* Com. Pleas  
till some body go with him to shew him  
which are the Defendants Goods. But he  
cannot in this case Return *Nulla ho-*  
*na.*

*Per Lord North*, the Sheriffs cannot dis- Bail taken  
charge a Prisoner upon a Process out of the in B. R. &c.  
*Common-Pleas*, by putting in Bail before  
a Judge of the *King's Bench*; neither can the  
Judges of the *Common-Pleas* take Bail to a  
Process out of the *King's Bench*; *per tot'*  
*Cur.*

A Captain is arrested and afterwards dis- Return of  
charged: Moved, that the Sheriff might not Writ.  
Return his Writ, and denied *per Cur' Mich.*  
1689. *Pollexfen.*

Moved, That an Appearance may be Attach-<sup>d</sup>  
taken on a Sheriffs Bond, given to the Defen- ment vers.  
dants Bayliffs to indemnify the Sheriff, and Bayliffs.  
the Debt is paid, and a discharge is got from  
the Plaintiff to the Sheriff; yet the Bayliffs  
arrest the Defendants Security and carry  
him to Gaol, notwithstanding he tenders  
them good Security, for Fees, as they pre-  
tended; let the Plaintiffs shew Cause why an  
Appearance should not be entred, and an  
Attachment against the Plaintiffs, *Moore*  
*vers. Haynes, &c.*

The Sheriffs Return a *Cepi corpus*; you  
must first file the *Cepi*, and then proceed to  
amerce him, which Amerciaments must be  
in the Philazers Office, *Pasch. 7 G. & M.*

Moved

Com. Pleas.

Cepi Returned, how  
to amerce.

Moved to alter the Sheriffs Return; for that he had Returned on a *Scd fā* all the Tenants, and they would have it Returned only against *Viner* the sole Landlord, and denied *per Cur. Hill.* 1690.

## Trespas, Assault, &amp;c.

After  
Agreement  
Inquiry  
executed.

**T**respas brought; the Plaintiff and Defendant agreed for 5 l. and the Defendant paid it; and afterwards the Plaintiff executed his Writ of *Enquiry*, and got 35 l. Damages. Motion, That this might be referred to the Prothonotary: Agreed *per Cur.* and all Proceedings to stop, *Mich* 1679.

Full Costs,  
*Trin.* 27.  
*Car. 2. Rot.*  
1614.

Full Costs were given where the Trespas was exactly as here, *per ambulans & arbores luccidit cepit & Asportabit*, and Verdict found generally, as in this Case. But the Judges bid Mr. *Robinson* enquire of Mr. *Livesay*, what was the Practice in the *King's-Bench* in the same Cases; and he affirmed he always gave full Costs where an *Asportabit* is laid: Reported to the Court by Mr. *Robinson*. But if the Declaration had been, and the Jury had found *Maeremid & lignū inde pvenien cepunt & asportaver'*; all agreed there must have been full Costs. *Qu. the Act. Q. further.*

This



## Notes.

451

This is a constant Rule, That if an *M. portaver* be laid in the Declaration, and the Verdict be found for the Plaintiff, generally upon *Non culp* pleaded that he shall have his full Costs. Com. Pleas. Rule.

Moved *pro Defendente*, That the Plaintiff should have no more Costs than Damages. No more Costs than Damages.  
If in *Tulgi* the Title comes in question, so that it must be given in Evidence, the Plaintiff shall have full Costs: But in this Cause the Defendant pleads a Way; the Plaintiff Replies, *Extra viam*; to which the Defendant Rejoins, *Non culp*, and this is barely *Not guilty*, and therefore (*per Act. 22. & 23. Car. 2. cap. 9. Sect. 149. Vid. Bro. fo. 56.*) an Action brought on this Statute for suing out a *Ca* *ſa* for 7 l. Damages.

If in Trespass for mean Profits, and you are doubtful of the time, the best way is to bring two Actions, one from the beginning of the time you doubt of, and another from the time certain. Time doubtful.

In an Action of Assault and Battery the Writ was without a *Simulcum*, and the *Parr* was with a *Simulcum*; and moved to cross out the *Simulcum* in the *Parr*, and denied. The Prothonotary said, That the Writ must say *Simulcum*, or else it cannot be put in the *Parr*. *Simulcum* in Assault and Battery, Mich. 1689.

Moved, That where the Plaintiff had sued three Defendants, and two are found guilty in an Action of *Assault* and *Battery*, that the Plaintiff might have Costs against the two, and denied, *Pasch. 7. G. & M. 1690.* Costs in Assault and Battery.

Costs

Com. Pleas.

Costs in  
Transgr.

Simile.

Costs in Trespas allowed, where the Corn, Straw or Soyl is taken or carried away; or if removed up out of an Inferior Court; otherwise no Costs, *Trin.* 1692. Lord Chief Justice *Treby*.

No Costs in Trespas for Ploughing; because there is no *Alpoztabit*.

## Treasury.

Treasury  
Motions.

Ordinary Motions, where no Affidavit is to be read, are usually made by Attornies in the Treasury; but none upon Affidavits.

Al' Hab'  
corp. cum  
pena.

An *al' Hab' corp' cum pena* is granted in the Treasury upon Motion; and therefore you need not move the Court for it.

May move in the Treasury, to bring any Sum under 5 l. into Court.

## Cryazo.

Notice of  
Trial, &c.

For Notice of Tryal, and executing Writs of *Inquiry*, and course of Trying Causes by *Proviso*es, I refer you to the Printed Rules.

Costs for  
not pro-  
ceeding to  
Trial.

Where the Plaintiff hath given Notice of Tryal, and does not proceed nor countermend the Notice before the Assizes, the Defendant on Affidavit made by him, or his Attorney, of his Attendance, may the next Term of Course have a Rule without Motion for his Costs of Attendance, to be  
taxed

taxed him by the Master ; which Rule must be observed by the Plaintiffs Attorney after the Master therein hath set down a Day for him to attend : At which Day, if he refuse to attend or shew no good cause to the contrary, the Master taxes you 26 s. 8 d. at the bottom of the Rule, which you are to recover by serving the Plaintiff personally with a Copy of the Rule and Taxation, and demanding the Money, which if he refuseth to pay you upon Affidavit and Motion, the Court grants you an Attachment. If the Defendant deposes any one to receive the Money, he must make him a Letter of Attorney for that purpose, and the party must in his Affidavit swear, he gave the Plaintiff Notice, that he had such Letter of Attorney. *Vide postea.*

Motion for a New Trial, upon suggestion of an Agreement, granted upon bringing the Money into Court within twelve days, and to pay full Costs, or else the Plaintiff to take his Judgment, 1679.

For a New Tryal ; because the Copy of the Issue was mended, and afterwards upon Tender refused by the Defendants Attorney, because the Plaintiffs Attorney did not shew him the Rule of Court for the amending, nor tender him the Costs by the Rule directed. Order to stay the *Postea* till Examined, 25. Oct. 1679.

For a New Trial in an Hue and Cry, where (after the recital of the Act of Parliament) the Count was left out in the Im- parlance, tho' inserted in the Issue. Ordered, to

A New Trial upon suggestion of an Agreement.

A New Trial, for not shewing Rule of Court, to amend Issue.

In Hue and Cry, where the Count is left out.

Com Pleas. to shew Cause why the Defendant should not have a New Trial.

Where Jury finds contrary to the Judges Direction.

For a New Trial, a

Jury man desiring Money of the Plaintiff.

For a New Trial, where the Jury found contrary to the Judges direction. In this Motion you must produce the Judges Certificate (of the Jury finding contrary to his direction) in Court.

For a New Trial and an Attachment against *Topfall Randall* a Jury-man, for demanding Money of the Plaintiff, which the Plaintiff refusing, he said, it had been better for him he had ; and the Verdict against the Evidence was given against the Plaintiff. *Per Cur.* Day given to shew Cause why a New Trial and an Attachment should not be granted, as prayed.

For excessive Damages.

Trial.

Book Debt.

For a New Trial by reason of excessive Damages given in Assault and Battery. Rule to shew Cause, why upon bringing in the Money, and paying full Costs, a New Trial should not be granted.

After the Defendant has pleaded, and the Issue is joyned, the Plaintiff must go on to Trial (altho' the Defendant will not accept the notice, or declare that he will not attend) and will have a Verdict. N. B. The Plaintiff cannot wave his Trial and execute an *Inquiry* ; because that is only where a Judgment is by consent of the Defendant, or else for want of Pleading. The Prothonotaries, upon reference to them give no Interest upon a Book-Debt, nor the Jury at a Trial ; because the forbearance to Sue is the Plaintiffs Courtesy.

If you move for a Trial at Bar, you must make Affidavit of the value of the Lands or Premises in Question. Moved, that the Defendant for of the Plaintiff was dead, and he being but Tenant for Life, and so found by the Special Verdict, the Plaintiff can have no Execution by the *De Jure*. *Per Cur.* bring your Writ of Error, we will take no notice of this Suggestion.

Trial at Bar.

Where a Jury is not full upon a Trial at Bar, the Plaintiff shall have ~~the~~ *res* the next return, *per Stat. 17 Car. 2.* for there does not need 15 days between the Teste and Return of it.

Jury at Trial at Bar *per Tales.*

If the Defendant be not willing to try the Cause the first day of the Assizes, upon a Petition to the Judge, and Affidavit of the reason, he will stay it till another day of the same Assizes.

Defendant not ready.

If a Juror be withdrawn, the Defendant cannot carry it down by Proviso, because the Cause stays by consent of both Parties.

Juror withdrawn.

Costs against the Plaintiff for attending at the Trial, if he doth not countermand his notice in convenient time; that is a day before the Assizes begin, are to be taxed of course by the Prothonotary without Motion in Court. But the Defendants Attorney and Defendant himself must make Affidavit of no Countermand of the notice, or that it was not timely enough, in such case the countermand must be expressed in the Affidavit.

Notice of Trial and Costs.



Tythes in Possession.

*Per North*, Notice of the Possession is notice of the Title, tho' held by Incumbrance, and the Purchasor must take notice of it at his Priril, and of the Title by which it is held.

Judges Opinion excepted against.

*Per Lord North*, If upon Tryal the Judge hath no matter of fact to direct, but gives his own Opinion, then the Party grieved may have a Bill of Exceptions: But if the Judge direct contrary to the matter of fact, then you may Demur to the Evidence.

Costs of a new Tryal.

No Tryal shall be set aside without Costs being paid of the first Tryal.

A new Tryal upon *riens per* discent on a surprize.

Debt against an Heir, and *riens per* Discent pleaded at Tryal, a seisure of the Father in parcel of the Lands is proved, and upon the Plaintiffs Affidavit, that he never was possessed but another, it was ordered a new Tryal, *Ramsden versus Batt*, Mich. 1690. *Pollexfen*.

If Issue be joyned above 12 Months, you must give a whole Term notice, and that before the Term begins, or not good, *Trin*. 1692. *Treby*.

**Venues**

**Venues & Venire Fac.**

**I**N Motions to alter **Venues**, besides the Motion to  
 Defendants, Affidavit, touching the place change  
 where the cause of Action did arise, his Venue.  
 Attorney must make one in Latin in the  
 Margin of the Declaration, touching the  
 time of his receiving it in this manner :  
**Ego J. P. Attor<sup>us</sup> Defendantis recepi**  
**hanc narrationem super---diem---nunc ulte**  
**pretie ( vel citra ) clausum Termin<sup>us</sup> &**  
**non antea** If the Motion be granted, the  
 Defendant must pay the Plaintiff for a new  
 Original.

There need not be 15 days between the Return  
 Teste and Return, by Statute, to try a Cause Vi' Fa'.  
 in the Country ; it is always returned the  
 last Return of the Term, in *London* or *Mid-*  
*dlessex* the second return ; it must not bear  
 Teste before Issue joyned, for then there is  
 no Issue to Warrant it ; it must be awarded  
 the same Term, the Issue is joyned the last  
 return, upon your Issue Roll of that Term.  
 But in the Record and **Venire Fac.**, the first  
 return of the same Term you try it if it be  
 three or four after.

Motion to alter the **Venue** ; **per Cur'** Venue al-  
 granted, unless cause be shewn to the con- tered.  
 trary.

The Court will never alter the **Venue** in Upon an  
 an Escape ; which was moved by Mr. *Grange*, Escape no  
 and denied **per tot' Cur'**, Octob. 24. 1689. Venue al-  
tered.

Com Plear.

*Writ*  
*Vitin' Scri-*  
*ptoris*  
 amended  
 in the *Ve-*  
*nire fa'*.

Moved to amend a *Venire fac'*, where 'twas only *Vitium Scriptoz'* (viz.) In an Action of Trespas only, the Clerk had Writ in the *Venire de placito transgr' & Ejectione firme*. Per Cur' let the *Ejectione firme* be struck out, if upon examination of the Prothonotary it be found only to be *Vitium Scriptoris*, and that there is no Error brought.

Notice to  
 be given  
 on altering  
 Venues.

If the *Venue* be changed after notice of Trial given, you must after such alteration give fresh and due notice, otherwise the Judgment will be set aside, altho' the Attorney on the other side accepted the Declaration by an oversight and paid for it.

*Venire fac'*.  
 To alter

Where a *Venire fac'* is returnable, the last return within Term, you cannot have Execution (on a Verdict) the same Term.

*Venue*.

To alter the *Venue* here was two Affidavits, one of the place where the Cause of Action arose, 2d. of the time of the Receipt of the Declaration, *Br.* 494.

To alter a  
*Venue* in  
 Debt on a  
 Lease  
 Parol.

To alter a *Venue* in a Debt upon a Lease parol, by Prothonotary, the Action is transitory, and it is not usual to alter the *Venue* in this Case; the Court seemed inclinable, that on a Lease Parol if it were made in the County where the Lands lie, the *Venue* might be altered and laid in the proper County, and accordingly made a Rule *Disse Causa*.

In Trover.

To alter *Venue* in Trover for the Plaintiff. Lord North, the Trover shall be admitted to be in that County where the Plaintiff lays the Conversion.

Where

Where a Man lays an Action in any improper Country, there the **Venue** shall be changed *ex debito iusticie*.

Venue changed.  
In Covenant and Debt Venue not altered. Declaration on the same Term

In an Action sur Covenants or for Money upon a Bond, the Court will not change the **Venue**.

To change the **Venue**, if the Declaration be of the same Term wherein it is delivered, there needs no Oath for the time of the Receipt of the Declaration; otherwise you must set it forth in your Affidavit when you received it, 1 Br. fo. 494.

You cannot move to change a **Venue** after a Plea is pleaded, *Pas. 7 G. & M. Pollexfen.*

No change of Venue after a Plea.

**Verdict.**

Where a joynt Action is brought against two, and both plead the same Plea, if the Verdict be found only against one; the other against whom it is not found recovers no Costs; if one had contest Judgment and the other pleaded, and a Verdict gone against him, the Costs of Trial are against them joynt, and he that confessed Judgment is as far liable to them as the other, and there is but one Taxation.

Joynt Actions.

To set aside a Verdict, for that the Jury was tampered with by the Plaintiff, and it was so alledged, that the Foreman of the Jury just before the Trial, adviled the Defendant to make an end of it, for that it would go against him; and that he and the rest of the Jury were well satisfied in it, *Concessa per Cur.*, a new Trial upon the tampering.

To set aside a Verdict.

Special  
Verdict.

A Verdict given at the Affizes to be Security to stand to an Award, and a Rule thereupon made at the Affizes. *Quere* the Form of the Rule.

Verdict for  
part of a  
Debt,

A Verdict given at a the Affizes, for securing the payment of Money, part whereof was paid, and the Plaintiff moved the Court to take out Execution for the residue, *quæ Concessa Pisi Causa.*

Verdict given.

A Verdict cannot be given but in the presence of the Plaintiff, and therefore if he will not appear he must be Non-suit.

Special  
Verdict.

The Court will not set aside a Special Verdict without the consent of the other side.

Fences in  
question,  
full Costs.

If the repair of Fences be in question, and the Plaintiff hath a Verdict, he shall have his full Costs, *Stat. 2 & 23 Car. 2.* at the end of the last Act.

### Witnesses.

Answer in  
Chancery  
no Evi-  
dence,

It was said by Serjeant *Maynard* upon a Motion, that the matter Sworn in an Answer in Chancery, could not be read as Evidence in the Common-Pleas.

Pauper al-  
lowed Costs  
per Wit-  
nesses.  
Deed in E-  
vidence.

Tho' the Plaintiff be a *Pauper*, yet the Court said he must have small Costs, for that he must be at the charge of the Witnesses.

If you have a Deed that you must produce as Evidence at a Trial, the best way is to bring it in the Treasury and move there, that it may be admitted at the Trial by the other side, which if they refuse, then the Court will give you the full Costs of your Witnesses



Witnesses to prove it ; but if you do not so move, you shall have your ordinary Costs, *per North* ; and you must give notice before hand of your Motion.

Where full Costs allowed.

If the Original Deed be in being, the Counterpart shall not be read as Evidence, unless the party producing it can make sufficient proof, that he hath used his utmost endeavour to procure it.

Deed Original and Counterpart.

If you have occasion for a Deed (at a Trial) which is in a third persons hand, you may have a *Subpœna* with a *Duces tecum* of the Deed, and if he fails, the Court will order him—Lord *North* said, that in the *Kings-Bench* the Lord *Bedford* being subpena'd with a *Duces tecum*, brought an Original Deed into Court lock'd up in a Box, which he denied to open, (tho' advised by the Court) to open it, and produce the Deed (but they could not force him to it) and because the Original was in Court, the Court would not suffer the Counterpart to be Read even in this Cause—The same Case *Mich. 1689.* and denied to bring Writings into Court upon a Motion.

Deed in Hand of a third person.

One of the Jury in a Trial at Bar was Sworn as a Witness and then examined.

One of the Jury a

Agreed *per Cur'*, That a Bill in *Chancery* between the same parties should be read as Evidence, tho' it be not a binding Evidence ; if it be not between both the parties at Common Law it shall not be read—One of the Plaintiffs in a Bill of *Chancery* being dismissed there, by Rule of Court was Sworn in Evidence in a Trial at Bar in the *Common Pleas*, tho' 'twas much opposed by the Counsel on the other side.

Witness. Bill in Chancery.

Party a Bill.

Cannot  
send for  
Papers to  
be Evi-  
dence at a  
Trial.

It was moved, That a Rule might be granted for the Custom-House to bring their Books to charge the Defendant at Trial withal, and denied, *Mich. 90. Pollexfen.*

See the Book called Trials per Pais,

## Words.

No more  
Costs than  
Damages.

Motion to pray the Court, that the Prothonotary do allow no more Costs than Damages in an Action of Slander and Conspiracy; the Conspiracy was not proved, *vide Cop-sale and Edwards, Crook 63. per Car.*

Original in  
Scandalum  
Magnatum

In *Scandalum Magnatum*, it is best to Sue out an Original, *per North.*

## Writs.

Special  
Writ.

Where the Writ is Special, you cannot declare in another Action, and if you do the Defendant may plead in Abatement.

Writ of a  
Fine.

No Fine can be taken at Bar if the Writ be not under Seal, *per Wyrley.*

The Essoyn day of every Term is in, and the return day past, as *die Lune in Octab Trin & die Martis prox post Octab Trin.*

All Originals are returnable on a Return as in *Crō Animarū*. But all Writs and Actions not by Originals, and Proceedings thereon, as Attachments of Priviledge, Bills against Priviledged Persons, Prohibition and the like, are returnable (and have continuance to days certain) as *die Lune in menā Pas.*



T H

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